

HONOURABLE DR.JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 6074 OF 2018

CRIMINAL PETITION No. 6075 OF 2018

AND

CRIMINAL PETITION No. 6078 OF 2018

COMMON ORDER :

The self-same petitioner, Narlavamsi Krishna @ Vamsi @ Krishna Vamsi @ Srinivas, son of Pardhasaradhi of Patamata, Vijayawada, is the petitioner herein. The petitioner in Criminal Petition No. 6074 of 2018 is the first accused herein in respect of Crime No.29 of 2016 of Station House Officer, Ibrahimpatnam Police Station, Krishna district for the offences punishable under section 8 [c] read with section 20 [b] [ii] {c} of Narcotic Drugs and Psychotropic Substances Act, 1985 covered by investigation, final report and taken cognizance in N5C.No. 32 of 2018 for illegal possession of about 3,253.3 Kgs. He was granted regular bail in CrI.MP.No. 1347 of 2016 while at the crime stage on 17/10/2016 by the learned Metropolitan Sessions Judge, Vijayawada, on his executing a personal bond for Rs.50,000/- with two sureties and shall not move beyond the limits of Vijayawada city without permission of the court and shall appear before the Station House Officer on every Monday, Wednesday and Saturday between 10:00 a.m. and 05:00 p.m. until further orders. He produced the solvency that was accepted on 25/01/2017 for being released.

Meantime, the Station House Officer verified the genuineness of the solvency and filed a memo on 13/06/2017 stating the solvencies are fake, he ventured to file fresh solvencies on 11/05/2017. He did not produce the earlier solvencies, having later filed fresh bail application from its not acceptance of the above in Crl.MP.No. 1943 of 2017, the same was not pressed and filed memo to accept fresh solvency and the memo to accept fresh solvencies and the memo initially returned was ultimately dismissed on 13/3/2018 as not maintainable. Subsequently rightly or wrongly in Crl.MP.No. 1006 of 2018 in that S.C.No. 32 of 2018 { Crime No. 29 of 2016 supra }, he filed a regular bail petition that was dismissed on 04/6/2018 saying the sureties pursuant to the bail order were fake when the report of the police referred supra and failed to produce the old sureties inspite of direction to consider the fresh solvencies and if he be released on bail by accepting, he may abscond from the process of law and difficult to secure and thereby the memo is not tenable including on the ground of ill-health if at all the jail authorities can take care and dismissed the regular bail application on 04/06/2018.

2. It is practically impugning the same and other wise on the rejection of memo also attacks in the present Criminal Petition No. 6074 of 2018. Similarly in Crl.P.No. 6075 of 2018 in Crime No. 263 of 2016 of Ibrahimpatnam Police Station now S.C.No. 120 of

2017 for the offences punishable under section 8 [c] read with section 20 [b] [ii] [c] of Narcotic Drugs and Psychotropic Substances Act, for the illegal possession of about 50 Kgs of ganja and it is in similar facts bail was granted to him in Crl.MP.No. 1380 of 2016, dated 17/10/2016 with conditions referred supra and produced fake solvency and police filed memo after enquiry and produced fresh solvency and failed to produce earlier solvency, thereby memo rejected on 13/3/2018, later filed fresh bail application in Crl.MP.No.1005 of 2018 that was for the self-same ground on 04/6/2018 was dismissed.

3. Similar to the above coming to the Crl.P.No.6078 of 2018 of S.H.O. Patamata Police Station now S.C.No. 119 of 2017 for the offences punishable under section 8 [c] read with section 20 [b] [ii] [c] of Narcotic Drugs and Psychotropic Substances Act, for the illegal possession of about 713.240 Kgs of ganja. There also bail was granted in Crl.MP.No. 1348 of 2016 dated 17/10/2016 with similar to the conditions referred supra and produced the fake solvency on its acceptance while the Police verification found the same as fake and they filed memo and later without production of earlier solvency even directed to file fresh solvency that memo was rejected on 13/3/2018, later filed the fresh Crl.MP.No.1007 of 2018 that was for the self-same reason similar to the above

dismissed on 04/06/2018 and the attack is similar to the above in the present petition.

4. The learned counsel for the petitioner referring to the impugned order of the learned Metropolitan Sessions Judge, Vijayawada in the three memos rejected by separate orders dated 13/3/2018 even referred the expression of this Court in 2014 [2] ALD (Criminal) 228 of once bail granted it will enure until it is cancelled and even earlier solvency found to be fake it is by imposing penalty to be paid fresh solvency to be accepted if at all to register a case against those responsible for the fake solvency while he was in judicial custody and the rejection memo is unsustainable that was not properly appreciated in saying factual matrix as if different. It is also the contention that even inadvertently another bail application subsequently filed from rejection of memo it will not from its dismissal a bar for the earlier bail order not at all cancelled so far much-less even by the impugned order of the Sessions Judge, dated 04/6/2018 by cancellation of the earlier bail with any observation.

5. The learned Public Prosecutor strenuously opposed the petitions saying he is not only involved in three cases but also three more cases under Narcotic Drugs and Psychotropic Substances Act and further involved in about 9 to 14 offences of cheating, forgery, criminal misappropriation and criminal intimidation etc., cases and

he is a notorious criminal and he shall not deserve any concession and the criminal petitions are liable to be dismissed.

6. Heard both sides and perused the entire material on record connecting the facts referred supra.

7. The principle of law that once a bail granted, it is always a bail till the end of trial until cancelled once not in dispute even earlier any fake solvencies are produced on his behalf even at his instance leave about the police got the right to register a case for the offences affecting the administration of justice, if at all the Magistrate or Special Judge also can take cognizance invoking section 195 Cr.P.C., for the said offence, once there is a fresh solvency subsequently produced, leave about the facts and seriousness of the case it has to be accepted at best by imposing penalty on the earlier bond for the breach committed by him from his self-bond leave about the question of production of the sureties found fake does not arise and even inadvertently any subsequent bail application is filed and it was dismissed it will not take away the right to move for fresh solvency once the earlier bail order is in force. The fact that he is required in other several crimes, no way a bar since section 267 Cr.P.C., enables the Police to secure by immediately filing P.T. memos for P.T. warrants to be issued for remand in those cases and any release after accepting fresh solvency by imposing penalty on the earlier solvency in these cases

so far as the bail order is not cancelled is if other wise not required in any other case.

8. With these observations, the Criminal Petitions are disposed of for the remedy of the petitioner to approach the trial court.

9. As a sequel, miscellaneous petitions if any, pending in these criminal petitions are disposed of.



DR. JUSTICE B. SIVA SANKARA RAO.

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