

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6884 OF 2018

ORDER:

The petitioner is A.9 among 9 accused in crime No.26 of 2017 of Machavaram Police Station, Guntur District, registered for the offences punishable under Sections 120-B, 147, 148, 450, 302 r/w 149 IPC dated 02.05.2017 from the report of the defacto complainant one Kurrela Venkata Ramaiah, the brother in law of deceased by name Posam Srinivasa Rao. He is seeking for anticipatory bail. He went unsuccessful earlier in seeking anticipatory bail including one application in CrI.P.No.5119 of 2018 when Court not inclined to grant was withdrawn on 11.06.2018 and earlier to it there was interim bail granted by another bench of this Court when sought for regular anticipatory bail in CrI.P.No.131 of 2018 and that interim bail concession it appears not availed to undergo the treatment for Coronary Artery Bypass Graft (CABG).

The police after investigation filed the charge sheet with 25 witnesses including the IOs referred in the charge sheet for completion of investigation, the petitioner shown in abscondence. The charge sheet speaks the criminal antecedents of A.1, A.3 and A.7. A.7 was granted anticipatory bail by order dated 24.08.2017 in CrI.P.No.4753 of 2017 by another bench of this Court. Other accused were granted either post arrest bail or anticipatory bail respectively.

The petitioner in the regular anticipatory bail claims that as the investigation is completed and charge sheet filed and taken cognizance by allotment of PRC pending on the file of JFCM, Pidiguralla, the petitioner is entitled to the concession of bail for not involved in any other crimes, hence he may be granted anticipatory bail.

Learned Public Prosecutor opposed the same.

This is not a case for grant of anticipatory bail including from the instructions of anticipatory bail order granted to A.7 so also from the expression of the Apex Court in **Siddharam Satlingappa Mhetre Vs. State of Maharashtra**¹ Para 112 guidelines 1 to 10 but also the witnesses specifically spoke the role of the petitioner as privy to the commission of the offence with pre-concert nefarious and sought for dismissal.

So far as A.7 concerned, what the other bench of this Court granted anticipatory bail observed was he was Ex-MLC contended as roped out of the political rivalry falsely implicated, however none of the witnesses during investigation spoke particularly among LWs.1 to 10 any role of A.7 and he is aged about 75 years and thereby by considering all these including from the expression of **Siddharam supra** one of the guidelines of age factor and sick anticipatory bail granted subject to conditions. So far as the petitioner-A9 concerned, even to consider with reference to it what is claimed there is medical record requiring from the heart problem treatment. The earlier interim anticipatory bail concession to undergo operation was

¹ (AIR 2011 SC 312=2011(1) SC 694

not undergone for whatever the reason. Thereby that cannot be a ground to consider with reference to the medical ground for any anticipatory bail to the petitioner herein. No doubt charge sheet filed and no investigation further required even from perusal of the charge sheet leave about other prerogative under Section 173(8) Cr.P.C. if any. However from perusal of the case diary as duty of the Court to balance the personal liberty with the propensity of the crime 4 witnesses LWs.11, 12, 15 & 16 specifically spoke role of the petitioner with privy and conspiracy since prior to the occurrence leave about its admissibility during trial, there are confession by co-accused among those arrested to any extent of admissibility under Section 30 of the Indian Evidence Act.

Once such is the case, leave about the petitioner went up to Apex court went unsuccessful for anticipatory bail. Once there are subsequent changed circumstances from the propensity of the crime, the Court is not able to balance the above that to consider the personal liberty.

Having regard to the above and in the result, this Criminal Petition is dismissed.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 12.09.2018
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