

HONOURABLE SRI JUSTICE P. KESHAVA RAO

I.A.No.1 of 2018 in / and CRL.R.C.1804 OF 2018

ORDER:

This Application is filed to condone the delay of 28 days in filing the present Criminal Revision Case.

2. The learned Public Prosecutor appearing for the respondent State has not opposed the Application.

3. Accordingly, the Application is ordered condoning the delay of 28 days in filing the Criminal Revision Case.

Heard the learned Counsel for the petitioner as well as the learned Public Prosecutor appearing for the respondents.

2. The present Criminal Revision Case is filed questioning the orders passed in Criminal M.P. No.317 of 2018 in P.R.C. No.8 of 2018, dated:14.3.2018, dismissing the petition filed under section 70 (2) Cr.P.C., to recall the Non-Bailable Warrant issued against the petitioner on 31.5.2017.

3. The facts of the case are as follows:

The petitioner herein is A.3 in Crime No.42/2014 of Nindra Police Station. He was enlarged on bail for invoking the provision under section 167 (2) Cr.P.C. However, the petitioner is in Central Prison, Kadapa with effect from 13.10.2015 in Crime No.80/2015 even till date. Due to lack of information, petition under section 317 Cr.P.C was not filed and as such, Non-Bailable Warrant was issued against the petitioner on 31.5.2017 and later, he was produced on execution of PT warrant on 14.6.2017. Accordingly, petitioner was

remanded to judicial custody and since then he is in prison. When the petitioner is in Central Prison, Kadapa, the question of not attending the Court may not arise unless and until he has been produced by the concerned police. In those circumstances, petitioner filed Criminal M.P. No.317/2018 to recall the Non-Bailable Warrant issued against the petitioner on 31.5.2017 on the file of the Judicial First Class Magistrate, Nagari. After hearing, the said petition was dismissed on 14.3.2018. Aggrieved by the same, the present Criminal Revision Case is filed.

4. The learned Counsel appearing for the petitioner, would contend that when the petitioner has been in judicial custody with effect from 13.10.2015 in Cr.No.80/2015 till date, the question of issuance of Non-Bailable Warrant against the petitioner, may not arise.

5. The learned Public Prosecutor appearing for the respondents fairly conceded that the petitioner is in Central Prison, Kadapa and as such, issuance of warrant may not arise. Learned Public Prosecutor also submitted that the information relating to the petitioner herein in Central Prison, Kadapa, may not have been informed to the Court below. As such, Non-Bailable Warrant was issued.

6. Be that as it may, when the petitioner is in Central Prison, Kadapa, in connection with Crime No.80/2015, the question of issuing Non-Bailable Warrant on 31.5.2017 may not arise on the ground of non-appearance of the petitioner on that day. In those circumstances, this Court deems it appropriate to recall the Non-Bailable Warrant issued against the petitioner on 31.5.2017. Accordingly, the Criminal Revision Case is allowed by setting aside the orders passed in Criminal

M.P. No.317 of 2018 in P.R.C. No.8 of 2018 of Nindra Police Station, dated:14.3.2018 on the file of the Judicial First Class Magistrate, Nagari and the Non-Bailable Warrant issued on 31.5.2017 against the petitioner is hereby recalled.

Pending Miscellaneous Petitions, if any, shall stand closed.

---

JUSTICE P. KESHA RAO

Dated:12-07-2018

gnr



HONOURABLE SRI JUSTICE P. KESHAHA RAO

I.A.No.1 of 2018 in / and

CRIMINAL REVISION CASE No.1804 of 2018

Dated:12-07-2018

gnr

