

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.7356 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. to relax the condition No.3 imposed by the II Additional District and Sessions Judge, Amalapuram, East Godavari District in Crl.M.P.No.705 of 2018 in Crime No.143 of 2018 by order dated 26.06.2018.

The petitioners are accused 2 to 5 and they filed application under Section 438 Cr.P.C. to enlarge them on anticipatory bail in the event of their arrest in Crime No.143 of 2018, registered for the offences punishable under Sections 498-A, 384, 326(B), 458, 307 read with 34 IPC before the Sessions Judge and that the Sessions Judge was pleased to grant pre-arrest bail imposing the following conditions:

- 1) They shall not directly or indirectly induce, coerce, threat or influence the complainant and the prosecution witnesses particularly the victim.
- 2) They shall not interfere with the further investigation if any.
- 3) They are directed to attend before the Station House Officer, Amalapuram Town Police Station, on every second and fourth Saturdays between 10.00 AM to 5.00 PM till filing of charge sheet or for the period of two months which is earlier.

The present petition is filed to modify condition No.3 as they are apprehending danger in the hands of the police.

Section 438 Cr.P.C. application was originally filed before the Sessions Judge and that the Sessions Judge was pleased to grant pre-arrest bail on certain conditions and one of such condition sought to be modified or relaxed is that report to the Station House Officer, Amalapuram Town Police Station, on every second and fourth Saturdays between 10.00 AM to 5.00 PM till filing of charge sheet or for the period of two months

which is earlier, because of inconvenience or harassment being caused by the police concerned.

The petitioners did not file any application as required under Section 439(1)(b) Cr.P.C. to relax condition before the Sessions Judge. There is a specific provision in Cr.P.C. to file application to relax or modify the condition under Section 439(1)(b) Cr.P.C. Instead of approaching the Sessions Court, the petitioners approached this Court under Section 482 Cr.P.C. invoking jurisdiction of this Court for relaxation or modification of condition No.3 imposed by the Sessions Court. When there is a specific provision, this Court cannot exercise power under Section 482 Cr.P.C.. However, liberty is given to the petitioners to approach the Sessions Court for relaxation or modification of Condition No.3 by filing application under Section 439(1)(b) Cr.P.C.

Accordingly, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

16.07.2018
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