

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7383 of 2018

ORDER :

The petitioner is A.2 among more than two accused of Crime No.117 of 2012 of Tuni Town Police Station of East Godavari District, registered for the offences punishable under Section 8(c) r/w.20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') for the possession of total 18 kgs with the accused persons as can be seen from the record.

2. The petitioner and A.1 were earlier granted regular bail and jumped the bail and it is about five years thereafter they were apprehended and produced on N.B.W. by its execution by the police. The warrant issued was for the non-appearance for hearing before charges on 17.04.2013. The petitioner was apprehended on 25.05.2018 and produced before the Court. The Special Judge-cum-I Additional Sessions Judge, Rajamahendravaram, dismissed his bail application in CrI.M.P.No.766 of 2018, dated 18.06.2018, with observation that he jumped the bail and hampered the progress of the trial for more than five years, due to his non-appearance having availed the earlier concession of bail, and even he is suffering from HIV, that can be taken care of by providing treatment by jail authorities, if necessary, and that is not open to him, much less in the facts to the concession of bail.

3. A perusal of the order no way mentions earlier bail order was cancelled, though the Court got the power either *suo moto* or on the application for cancellation, that too from jumping of bail, leave about for this Court if at all to cancel notice and enquiry is necessary. Once the bail order is not cancelled, even NBW executed for non-compliance with the bonds issued and taken to custody, the remedy open is to execute fresh bonds by payment of penalty on the earlier bonds as held by this court in **Dasarai Satyanarayana v. State of Andhra Pradesh**¹ reiterated in CrI.P.No.6672 of 2018.

4. Having regard to the above, the criminal petition is disposed by left the remedy if at all the bail is not cancelled to furnish fresh solvency pursuant to the earlier bail order conditions, by payment of penalty for the earlier bonds forfeited from non-appearance and NBW issued. Needless to say, the police if at all wants to see cancellation of the bail, remedy is left open to decide on own merits before the learned Special Judge.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

24th July 2018.

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¹ 2014 (2) ALD (CrI.) 228