

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 8739 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure by the petitioner-accused No. 4 to quash condition No. 2 imposed against him by order dated 27-09-2017 in Criminal M.P.No. 1293 of 2017 on the file of the Court of Principal Sessions Judge, Guntur (for short, 'the Court below').

2. The petitioner is accused No. 4 in crime No. 225 of 2011 of Amaravathi Police Station, Guntur District, registered for the offences punishable under Sections 420 and 406 read with Section 34 of IPC. This Court by order dated 18-06-2015 in Criminal Petition No. 5188 of 2015 granted bail to the petitioner on certain conditions. By order dated 22-07-2015 in Criminal Petition M.P.No. 6098 of 2015, this Court was pleased to modify the conditions imposed by order dated 18-06-2015 and directed the petitioner to report before the CID, Guntur, daily in between 10 a.m. and 5 p.m. Later, this Court by order dated 27-01-2016 was further pleased to relax the condition imposed by order dated 22-07-2015 and directed the petitioner to appear before the CID, Guntur, monthly once viz., on first Monday of every month for a period of six months. Accordingly, the petitioner complied with the above condition and the period of six months had expired by 26-07-2016. After a lull of more than one year, the petitioner filed Criminal M.P.No. 1293 of 2017 before the Court below under Rule 30 of Criminal Rules of Practice to dispense with his appearance till charge sheet is filed on the ground that in respect of the present case, he is on bail and that since some other accused are in jail, the matter is being posted regularly and therefore he is facing much difficulty to attend before the Court below. The Court below by order dated 27-09-2017, while dispensing with the appearance of the petitioner until further orders or receiving of summons from trial Court after charge sheet is

filed, directed the petitioner to appear before the concerned police station on first Sunday of every alternative month till his appearance before the Court after numbering the case. Now, the same is challenged in the present petition.

3. According to Rule 30 of Criminal Rules of Practice, when an accused is released on bail during investigation, he shall be bound over to appear before the Court after charge sheet is filed and summons served on him and it is not necessary to bind him to appear on any earlier date or dates. Thus, from Rule 30 of Criminal Rules of Practice, it is clear that when an accused is released on bail during investigation, it is not necessary to bind him to appear on any earlier date before charge sheet is filed. A similar question came up for consideration before this Court in ***G.Kondadam and others Vs. State of A.P. and another***¹, wherein it is held that merely on the ground that it is not possible to secure the presence of accused after charge sheet is filed into Court, the Court cannot act contrary to law and accordingly dispensed with the presence of the accused till charge sheet is filed and summons served on him. Therefore, imposing condition on the petitioner to appear before the concerned police station on first Sunday of every alternative month till his appearance before the Court after numbering the case is contrary to law and the principle laid down by this Court in the judgment referred *supra* and the same is liable to be set aside and is accordingly set aside.

4. The criminal petition is allowed. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 20-08-2018.

JSK

M.SATYANARAYANA MURTHY, J.

¹ 1996 (1) ALD (CrI.) 670 (A.P.)