

HIGH COURT FOR THE STATE OF TELANGANA, HYDERABAD
MAIN CASE No.: Crl.A. No.557 of 2022

PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFICE NOTE
	10.11.2022	<u>Dr.GRR, J</u> <u>I.A.No.1 of 2022</u> This application is filed by the petitioner-appellant-accused to condone the delay of (1996) days in filing the appeal against judgment dated 22.03.2017 passed in SC No.280 of 2014 by the Principal Sessions Judge at Adilabad. Heard Sri N. Avinash, learned counsel for the petitioner and the learned Additional Public Prosecutor. The learned counsel for the petitioner submitted that the petitioner was convicted for the offence under Section 302 IPC by the Court of Principal Sessions Judge, Adilabad in SC No.279 of 2014 vide Judgment dated 28.11.2016 and was in jail since more than five (5) years. He was granted bail in the said case by this Court vide order dated 17.10.2022 and in compliance of the said orders when bail bonds were furnished, he was informed by the Jail Superintendent that as the petitioner was also convicted in SC No.280 of 2014, his conviction in the said case would start after his conviction in SC No.279 of 2014. Learned counsel further submitted as the	

¹ Criminal Appeal No.607 of 2011,
dated 16-02-2018

	petitioner was undergoing life imprisonment and as he was informed that appeal was filed against the judgment, he was under the impression that the appeal was filed even in the subject case also i.e. SC No.280 of 2014, but he was unaware of the said aspect that appeal was not filed in SC No.280 of 2014 due to which there was delay of (1996) days in filing the present appeal. Considering the submissions of the learned counsel for the petitioner-appellant, the delay of (1996) days in preferring the appeal is condoned. Accordingly, I.A. No.1 of 2022 is allowed. Dr.GRR, J <u>I.A.No.2 of 2022</u> This application is filed to enlarge the petitioner-appellant-accused on bail by suspending the execution of sentence of imprisonment imposed against him vide judgment dated 22.03.2017 in SC No.280 of 2017 by the Principal Sessions Judge, Adilabad, pending the appeal. Heard Sri N. Avinash, learned counsel for the petitioner and the learned Additional Public Prosecutor. The learned counsel for the petitioner submitted that the petitioner was convicted for the offence under Section 302 IPC in SC No.279 of 2017 on the file of the Principal Sessions Judge, Adilabad on 28.11.2016. He was also tried for the offence under Section 195-A IPC for threatening the witnesses in SC No.279 of 2014 vide SC No.280 of 2014 and the	
--	--	--

		said case also ended in conviction and he was sentenced to undergo rigorous imprisonment for a period of five (5) years and to pay a fine of Rs.1,000/-, in default of payment of fine, to undergo simple imprisonment for a period of three (3) months for the offence punishable under Section 195-A IPC on 22.03.2017. The petitioner was enlarged on bail in SC No.279 of 2014 on 17.10.2022 as per the guidelines laid down by this Court in Batchu Ranga Rao and another v. State of Andhra Pradesh¹, but the Jail Superintendent was refusing to release him on bail as he had not obtained bail in SC No.280 of 2014 stating that the said imprisonment would run consecutively after his completion of sentence in SC No.279 of 2014 and prayed to release the petitioner on bail. The learned counsel for the petitioner also brought to the notice of this Court about the provisions of Section 427 Cr.P.C. On a perusal of Section 427 Cr.P.C., it reads as follows: “427. Sentence on offender already sentenced for another offence. (1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence: Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such	
--	--	---	--

		order, the latter sentence shall commence immediately. (2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.” As per the facts of this case, the petitioner was sentenced to imprisonment for life for the offence under Section 302 IPC vide SC No.279 of 2014 on 28.11.2016 and subsequently, he was tried and convicted for the offence under Section 195-A IPC vide SC NO.280 of 2014 on 22.03.2017 and was sentenced to undergo rigorous imprisonment for five years. Section 427 (2) Cr.P.C. is applicable to the facts of the present case. As such, the subsequent sentence of five years rigorous imprisonment shall run concurrently with his previous sentence of life imprisonment. As the petitioner had already undergone more than five years rigorous imprisonment, he had completed the sentence imposed against him for the offence under Section 195-A IPC in SC No.280 of 2014. As such, he is entitled to be released for his conviction for the offence under Section 195-A IPC. Accordingly, the I.A. No.2 of 2022 is closed. Dr.GRR, J <u>Crl.A. No.557 of 2022</u> The Criminal Appeal is dismissed as not pressed vide separate judgment.	
--	--	---	--

		B/O.KTL	