

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**CRIMINAL PETITION No.1821 of 2022**

**ORDER:-**

This Criminal Petition, under Section 439 of the Code of Criminal Procedure, 1973, is filed to enlarge the petitioner on bail.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State.

3. The petitioner is A-1 in Sessions Case No.359 of 2017 on the file of the learned IV Additional District and Sessions Judge – cum – Special Judge for Trial of Offences against Women, Anantapur. This is a case arising out of Crime No.78 of 2013 on the file of Mahila Police Station, Anantapur, Anantapur District.

4. A case under Sections 498-A and 307 read with 34 of the Indian Penal Code, 1860 (for short "I.P.C.") was registered against the petitioner in the above crime. He was arrested in connection with the above crime and subsequently, he was enlarged on bail. He was directed to appear before the trial Court after receipt of summons after filing the charge sheet. It appears that summons were issued to the petitioner for his appearance in the trial Court after charge sheet was filed. However, on the ground that the petitioner did not turn up for trial, non-bailable warrant was issued against him. As the N.B.W. could not be executed as the petitioner was not found at the address given by him at the time of granting bail, proclamation was ordered under Section 82 Cr.P.C. Thereafter, the N.B.W. was executed and the petitioner was arrested on

04.02.2022 and he was produced before the trial Court and remanded to judicial custody on 05.02.2022. Since then, he has been in judicial custody.

5. Learned counsel for the petitioner would submit that at the time of arrest, the petitioner was residing in Anantapur and thereafter, he has shifted his residence to Nellore and he has been residing in Nellore. Therefore, the summons that were issued by the trial Court are not served on him and he has no knowledge regarding the adjournments or dates given for his appearance in the said case by the trial Court and as such, he could not appear before the trial Court. Therefore, he would submit that the absence of the petitioner before the trial Court is not deliberate or willful and it is only on account of the aforesaid reasons that he could not appear before the trial Court. Therefore, he prayed for grant of bail.

6. Learned Additional Public Prosecutor opposed the Criminal Petition. He would submit that the petitioner did not inform regarding change of address to the police to enable them to serve summons on him at the place where he is now residing. He further submits that the trial Court also, while observing that he failed to inform his change of address to the police, held that he is not entitled to bail. Therefore, he would pray for dismissal of the Criminal Petition.

7. The fact that the petitioner has shifted his residence from Anantapur to Nellore is not in dispute. Similarly, summons issued by the trial Court were not served on him is also not in dispute. Therefore, the petitioner has no knowledge regarding

the fact that the charge sheet was filed against him and that summons were issued to him. Therefore, as rightly contended by the learned counsel for the petitioner, the absence of the petitioner is not deliberate or willful. It is only on account of the aforesaid reason that is explained by the petitioner that he could not appear before the trial Court. The petitioner is now a permanent resident of Nellore District and he undertakes to appear before the trial Court as and when directed till the trial of the case is completed and case is disposed of. Therefore, in the said facts and circumstances of the case, this Court is of the considered view that the petitioner is entitled to be enlarged on bail and more particularly, as he has been languishing in jail for more than one month period i.e., from 05.02.2022.

8. Resultantly, this Criminal Petition is allowed. The petitioner/A-1 is ordered to be enlarged on bail on execution of self bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties for a likesum each to the satisfaction of the learned IV Additional District and Sessions Judge – cum – Special Judge for Trial of Offences against Women, Anantapur, Anantapur District. On his release, the petitioner shall appear before the trial Court and co-operate for completion of trial in the said case.

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**JUSTICE CHEEKATI MANAVENDRANATH ROY**

Date : 28.03.2022

AMD

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