

THE HON'BLE SRI JUSTICE K. SURESH REDDY

CRIMINAL PETITION No. 3950 OF 2023

ORDER:

Accused No.5 in Crime No.552 of 2023 of Patamata Police Station, Vijayawada city, filed the present application under Section 438 of Criminal Procedure Code, 1973, seeking his release on anticipatory bail.

2. The said Crime was registered under Sections 167, 409, 477(A), 201, 420, 384, 120(B) of IPC.

3. As the Crime was registered under the provisions of Indian Penal Code, the petitioner filed an application under 438 of Cr.P.C., which was dealt with by XII Additional District and Sessions Judge - Cum - VI Additional Metropolitan Sessions Judge, Vijayawada. During the pendency of the said anticipatory bail application before the Court below, the prosecution filed a Memo including the offence under Section 7 of Prevention of Corruption Act. In view of the inclusion of the said provision, the Court below i.e., VI Additional Metropolitan Sessions Judge, Vijayawada, ought not to have passed any orders on merits. In fact, in the order dated

15.06.2023, the VI Additional Metropolitan Sessions Judge, Vijayawada has stated that *“if application of the petitioner is considered by the said Court, it certainly amounts to encroaching jurisdiction of designated Court which cannot be made consciously”*. Having observed the same, the VI Additional Metropolitan Sessions Judge, Vijayawada, ought not to have disposed of the said application on merits, and instead the bail application should have been returned, directing the petitioner to approach the Special Court.

4. In that view of the matter, the order passed by the VI Additional Metropolitan Sessions Judge, Vijayawada, in CrI.M.P.No.670 of 2023 dated 15.06.2023, is liable to be set aside on the said ground. Accordingly, the said order is set aside and the learned VI Additional Metropolitan Sessions Judge, Vijayawada is directed to forward the said bail application to the Special Court for trial of SPE & ACB cases, Vijayawada, if it is not forwarded already. On receipt of the said bail application, the learned Special Judge is directed to re-number the CrI.M.P., and dispose of the same, after hearing both sides, in accordance with law, within a period of one (01) week from the date of receipt of papers from the VI

Additional Metropolitan Sessions Judge, Vijayawada. The entire exercise has to be completed on or before 07.07.2023. Till the disposal of the said petition, the Police are directed not to take any coercive steps against the petitioner. The petitioner is directed to co-operate for early disposal of the Criminal Petition. It is made clear that this order of interim protection will not be extended under any cause. The learned Special Judge is directed to dispose of the said petition on merits uninfluenced by the order of interim protection granted by this Court.

5. With the above directions, the Criminal Petition is closed.

SRI K.SURESH REDDY, J

Date: 28.06.2023
SRT

14

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SRT