

In Re: Bisabathuni Ramalingayya

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SooperKanoon Citation : sooperkanoon.com/790144

Court : Chennai

Decided On : Dec-12-1949

Reported in : AIR1950Mad391

Judge : Panchapakesa Ayyar, J.

Acts : Criminal Law (Amendment) Act, 1908 - Sections 17(1) and 17(3); [Code of Criminal Procedure \(CrPC\)](#) , 1898 - Sections 497 and 498

Appeal No. : Criminal Misc. Petn. No. 3068 of 1949

Appellant : In Re: Bisabathuni Ramalingayya

Advocate for Pet/Ap. : A. Ramchandran of Row and ;Reddy, Advs.;N.T. Raghunathan, Adv. for Public Prosecutor

Disposition : Petition allowed

Judgement :

Panchapakesa Ayyar, J.

1. The learned Public Prosecutor is afraid that the language used in Section 17 (3), Criminal Law Amendment Act of 1908 will make it impossible for this Court to grant bail to persons like the petitioner, accused of an offence under Section 17 (1). His fears are groundless. Section 17 (3) runs as follows:

'An offence under Sub-section (1) shall be cognizable by the police, and, notwithstanding anything contained in the Criminal Procedure Code, 1898, shall be nonbailable.'

It is far fetched for the learned Public Prosecutor to think that this clause takes away from a person accused of an offence under Section 17 (1), the right, in suitable cases, to be released on bail under Sections 497 and 498, Criminal P. C. Section 17 (3) merely makes an offence under Section 17 (1) cognizable and also nonbailable, notwithstanding anything contained in the Criminal Procedure Code about such unlawful assemblies and meetings. Kindred offences under Sections 144, 145, 146 and 148, Penal Code are bailable under the Code of Criminal Procedure. By analogy, the offence under Section 17 (1), Criminal Law Amendment Act, similar to those offences, can be argued to be bailable. Merely to prevent this, the above clause has been introduced. If the intention of the legislature was to prevent the grant of bail to a person accused of an offence under Section 17 (1), Section 17 (3) would have said 'shall not be covered by Sections 497 and 498, Criminal P. C, and no Court shall grant bail for such an offence,' instead of 'shall be non-bailable.' When even people accused of murder and waging war against the King can, in suitable cases, be granted bail, it is futile to say that persons accused of the comparatively smaller offence, under Section 17 (1), shall never granted bail.

2. It is not alleged that the petitioner herein is likely to throw a bomb or hand-granade or stick of dynamite at the police or other Government officers, or do any other violent or dangerous act if released on bail. So, I direct him (Bisabathuni Ramalingayya) to be released on bail on big furnishing security in his own bond for the sum of Rs. 1000 (RS. one thousand only) with two sureties for Rs. 1000 (Rs. one thousand only) each to the satisfaction of the Additional First Class Magistrate of Tenali, pending disposal of the proceedings before the said Additional First Class Magistrate of Tenali in Crime No. 25 of 1949 or until further orders of this Court.