

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

CrI.P. No. 15112 of 2016

DATE: 20.10.2016

Between:

Syed Huvan Nazar

.. Petitioner /
Accused

And

The State of Andhra Pradesh

.. Respondent



ORDER:-

This Criminal Petition is filed under Section 438 Cr.P.C. seeking to grant anticipatory bail to the petitioner in connection with Crime No.198 of 2016 of Old Guntur Police Station, Guntur Urban, registered for the offences punishable under Sections 420, 468 and 471 read with Section 34 IPC.

The case of the prosecution in brief is that the *de facto* complainant is the absolute owner of an extent of Ac.4.60 cents of land in Sy.No.669/B2 situated at the backside of Venkata Ramana Theatre, O Line, Balaji Nagar, Old Guntur in Guntur Town and that land is inherited from his father. The petitioner claimed that he purchased the property from the *de facto* complainant under an agreement of sale and trying to encroach the property. He has created forged document showing that he paid Rs.4,57,00,000/- to the *de facto* complainant and is trying to grab the property. As the *de facto* complainant is residing in Kurnool, he is not able to come down to Guntur and look after the property on account of his old age and decided to sell the property to one of his friends.

The petitioner has threatened the *de facto* complainant's friend stating that if anybody enters the land, he will see their end and also raised huts in the land.

The learned counsel for the petitioner has submitted that the *de facto* complainant executed an agreement of sale dated 23.10.2013 in favour of the petitioner in supersession of earlier agreements. The petitioner developed the land and sold part of the plots to third parties. On account of abnormal increase in the prices of the lands in Guntur City, the *de facto* complainant is not coming forward to execute registered sale deed in favour of the petitioner. In view of the attitude of the complainant, the petitioner got issued a legal notice dated 27.08.2016 threatening to sue against him for specific performance of contract. The *de facto* complainant issued a reply notice dated 10.09.2016 denying the execution of the document, etc. In view of the same, the petitioner filed O.S.No. 344 of 2016 along with I.A.No. 1711 of 2016 seeking injunction against the complainant or his men and the same are pending adjudication.

The learned counsel for the petitioner has further submitted that when the police tried to arrest the petitioner, the petitioner moved an application in Crl.M.P.No. 1969 of 2016 before the Court of III Additional Sessions Judge, Guntur, for anticipatory bail, and the learned Judge dismissed the Petition on the sole ground that investigation is not completed and further observed that if the petitioner is enlarged on bail

there is every possibility of the petitioner interfering with the investigation.

The learned counsel for the petitioner has also submitted that the main complaint against the petitioner is that he has forged agreement of sale. The dispute is purely of civil nature and in view of the filing of the suit and exchange of notices, the genuineness of the document is to be considered by civil Court during the course of enquiry. The dispute is with regard to sale or otherwise of the property which is pending adjudicating before the civil Court. The police cannot establish the fact of genuineness of the document. Thus, it is prayed that the petitioner may be directed to be released on bail.

The fact remains that the allegations levelled against the petitioner are that he created false document showing that he paid an amount of Rs.4,57,00,000/- to the *de facto* complainant in cash on different dates under forged document, and based on which, he is trying to grab the property. Thereafter, just to create his defence, he issued a legal notice to the *de facto* complainant to which reply has already been given by denying the same. Subsequently, the petitioner filed the suit against the *de facto* complainant to give colour of civil nature, but the petitioner, in fact, has not paid even a penny to the *de facto* complainant either by

cheque or by pay-order or cash. However, the petitioner claims to have paid an amount of Rs.4,57,00,000/- in cash. The petitioner has also failed to show that the property in question was purchased and physical possession of the same is taken. Moreover, the petitioner claims that possession of the property is also part of the agreement of sale. The plea of the petitioner is that he paid an amount of Rs.4,57,00,000/- in cash and without taking physical possession of the property cannot be believed. It seems, *prima facie*, the petitioner has forged documents to grab the property of the complainant.

In view of the facts recorded above and since the investigation officer has sent the document to Forensic Laboratory for expert's opinion and the investigation is pending, I am not inclined to allow the Criminal Petition.

At this juncture, the learned counsel for the petitioner has sought permission of this Court to withdraw the Criminal Petition.

The permission is rejected.

Consequently, the petitioner is directed to surrender himself before the Station House Officer, Old Guntur Police Station, Guntur city / Court concerned.

It is made clear that the observations made by this Court shall not influence the trial Court during trial in any manner.

Accordingly, the Criminal Petition is rejected.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

20.10.2016
bcj

