

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION No. 26 of 2017

ORDER:

Vide present Criminal Petition, the petitioner/de facto complainant seeks a direction thereby to cancel the bail granted to the second respondent/accused vide order dated 21.12.2016 passed in CrI.M.P.No.583 of 2016 by the learned First Additional Judicial First Class Magistrate, at Jagtial, pursuant to the registration of Crime No.253 of 2016 on the file of Station House Officer, Police Station, Jagtial Town for the offence punishable under Sections 420k and 506 IPC.

The present petition is filed on the ground that the Court below ought to have seen that the second respondent/accused being a Government servant deceived the petitioner and took huge amount of Rs.10,00,000/- by executing agreement on Non judicial stamp paper worth Rs.100/- stating that he will get job for the petitioner's son, which is a grave offence, as such, ought not to have granted bail to the second respondent/accused.

It is an admitted fact that vide order dated 19.12.2016 the Court below granted interim bail to the second respondent/accused on the ground that the police have failed to follow mandatory directions of Honourable Supreme Court. The Court below gone through the documents filed by the investigating agency and noted that in the years 2005-08 the second

respondent/accused has worked in Jagtial town as MPDO and he has taken loan of Rs.2,00,000/- on 12.12.2005 with interest at the rate of 3% per annum and another sum of Rs.3,00,000/- on 20.06.2009 by executing some promissory notes and SBH cheques. Till now he paid Rs.21,86,202/-. On 23.11.2011, the accounts were settled whereby an amount of Rs.12,00,000/- has to be paid to the complainant/petitioner. As such the petitioner/complainant has taken one blank promissory note and Rs.100/- blank stamp paper till the accounts were settled as on 23.11.2014, wherein the petitioner/complainant has fell in due to an amount of Rs.10,75,000/-. Accordingly he executed two promissory notes, one for Rs.5,00,000/- and another for Rs.5,75,000/-. While the things stood thus, on 25.10.2016 at about 3.00 PM, the petitioner/complainant went to Peddapally MPDO office where the second respondent/accused was working, and threatened him to pay the due amount by 16.11.2016. As such, the second respondent/accused and his wife Geetha forcibly made to execute a paper stating that they would pay the due amount by 16.11.2016.

The Court below after recording the submissions of both the parties, opined that since the second respondent/accused involved in an offence punishable under Sections 420 and 506 IPC, which are punishable for imprisonment of up to 7 years, but not punishable with either death or life imprisonment, as such, accused can be released on bail on his executing personal bond. The Court below further directed the second respondent/accused

to deposit his original passport, if not, he has to file an affidavit to that effect. He was also directed not to influence the prosecution witnesses in any manner and cooperate with the investigating agency and mark his presence before the Investigating agency on every Sunday in between 2.0 PM and 4.00 PM for a period of eight weeks or till filing of charge sheet, which ever is earlier.

It is not in dispute by the learned Counsel appearing on behalf of the parties that while granting bail and cancellation of the same is discretion of the Court keeping in view the facts and circumstances. It is also not in dispute that the bail can be cancelled only if the order is perverse or any of the conditions imposed by the Court are found violated or the accused is not cooperating with the investigating agency or threatening or influencing the prosecution witnesses. However, in the present case, none of the grounds are made out by the petitioner for cancellation of bail.

Finding no merit in the present the Criminal Petition, the same is dismissed accordingly.

Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence.

JUSTICE SURESH KUMAR KAIT

DATED 3rd January, 2017.
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