

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 6730 OF 2016

O R D E R:

This Criminal Petition is filed under Section 438 of Cr.P.C to direct the first respondent to release the petitioners on bail in the event of their arrest in connection with 'any' crime.

2. The contention of the petitioners is that there were disputes among the villagers with regard to site of an extent of 265.2 Sq.yards in S.No. 61/2, D. NO. 2-32/3, Krishnaiah Palem Village, Mangalagiri Mandal, Guntur District and the parties approached this Court by filing a Writ Petition No. 13061 of 2016 and thus there is a civil litigation pending before the Court. However, petitioners apprehending their arrest in connection with 'any' crime.

3. Learned Public Prosecutor reported that he has no instructions.

4. The general principle is that the High Court or a Court of Sessions can grant pre-arrest bail if the petitioner is arrayed as an accused in any bailable or cognizable case. But the petitioners did not explain whether any bailable or cognizable case is likely to be registered against them and thereby sought for a blanket order of bail to direct the first respondent to release the petitioners on bail in the event of their arrest in connection with 'any' crime. Such blanket order cannot be granted while exercising power under Section 438 of IPC as per settled law laid down by the Apex Court in *Gurbaksh Singh Sibbia V. State of Punjab*^[1] and *Sarbajit Singh V. State of Punjab*^[2]. The relevant portion is at paragraph 45, which reads as under:

"45. We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is proposition No.(2). We agree that a 'blanket order' of anticipatory bail should not generally be passed. This flows from the very language of the section which, as discussed above, requires the applicant to show that he has "reason to believe" that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. That is why, normally, a direction should not issue Under Section 438 (1) to the effect that the applicant shall be released on bail "whenever arrested for whichever offence whatsoever." That is what is meant by a 'blanket order' of anticipatory bail, an order which serves as a blanket to cover or protect any and every kind of allegedly unlawful activity, in fact any eventuality, likely or unlikely regarding which, no concrete information can possibly be had. The rationale of a direction Under Section 438 (1) is the belief of the applicant founded on reasonable grounds that he may be arrested for a non-bailable offence. It is unrealistic to expect the applicant to draw up his application with the meticulousness of a pleading in a civil case and such is not requirement of the section.; But specific events; and facts must be disclosed by the applicant in order to enable the court to judge of the reasonableness of his belief the existence of which is the sine qua non of the exercise of power conferred by the section".

5. Unless the petitioners substantiate their contention that there is a reasonable apprehension of their arrest, a blanket order or bail cannot be granted and it amounts to granting of bail in air. Therefore, I cannot issue a direction to the first respondent to release the petitioners on bail in the event of their arrest.

6. Accordingly, the Criminal Petition is dismissed. As a sequel thereto, miscellaneous petitions, pending if any, shall stand dismissed.

Date: 05.05.2016
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[\[1\]](#) (1980) 2 SCC 565

[\[2\]](#) AIR 1980 SC 1632