

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.10830 of 2016

ORDER:

The petitioner, who is an accused, filed the present application under Sections 437 and 439 of the Code of the Criminal Procedure (Cr.P.C.), seeking enlargement on bail in crime No.74 of 2016 of Gantyada Police Station, Vizianagaram District, registered for the offence punishable under Section 5 of

A.P. Protection of Depositors of Financial Establishment Act, 1999 (for short 'the Act').

Originally, a private complaint was filed by one L.Venkata Surya Subrahmanya Sharma with the following allegations:

The informant joined the chit run by the petitioner for the value of Rs.5,00,000/- payable in 50 monthly instalments @ Rs.10,000/- per month, complainant paid monthly subscriptions from July, 2011 to July, 2014, i.e. an amount of Rs.3,42,340/- (after deducting dividend amount on monthly subscription). It is further stated that informant is also the subscriber of another chit run by the petitioner for the value of Rs.5,00,000/- in which he paid monthly subscriptions for 19 months @ Rs.20,000/- per month, total Rs.4,08,000/- (after deducting dividend amount on monthly subscription). Thereafter, petitioner neither conduct any chit auction nor repaid the amounts subscribed by the informant. Thus, it is alleged that the informant who sustained loss to the tune of Rs.7,50,940/- was cheated by the petitioner.

Heard learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent-State.

Learned counsel for the petitioner mainly submits that even accepting the allegations to be true, the provision of Section 5 of the Act is not applicable. Hence, prays for grant of bail to the petitioner. The same is opposed by the learned Public Prosecutor contending the there is likelihood of altering Section of Law if necessary.

A perusal of the material, which has been placed before this Court, would show that more number of witnesses have to be examined to find out the amount involved in the fraud. The record reveals that as on date petitioner has cheated the subscribers to the tune of Rs.40,00,000/-. Having regard to the gravity of offence and since investigation is still pending, I am not inclined to grant bail to the petitioner. However, the issue as to whether Section 5 of the Act is applicable or not can be decided only after completion of investigation since the investigating agency is at liberty to alter the provisions of law after completion of investigation and at the time of filing the charge sheet.

Accordingly, the Criminal Petition is dismissed.

**JUSTICE C.
PRAVEEN KUMAR**

01.08.2016
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