HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3948 OF 2017

ORDER:

Requesting to grant anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 (Code), the present Criminal Petition is filed.

2. The petitioner viz., Shaik Hamed alias Hamad Khan is the sole accused. He alleged to have committed the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. Heard Sri Koneti Raji Reddy, learned counsel, for Sri S.J.A. Nadeem, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana, and perused the material on record.

4. The learned counsel for the petitioner pleaded innocence and false implication of the petitioner. According to the petitioner, the entire allegations are levelled against the sponsor from Saudi Arabia and the only role played by him (petitioner) is sending the sister and mother of the *de facto* complainant to Saudi Arabia, as a travel agent, and, therefore, requests to grant anticipatory bail. The learned counsel has placed reliance on the decision of the Hon'ble Supreme Court in **S.W. Palnitkar v. State of U.P.** It is according to the learned counsel that there is no entrustment as required under Section 406 of

IPC and, therefore, criminal breach of trust cannot be viewed, much less, the offence of cheating so far as the petitioner is concerned.

5. The learned Additional Public Prosecutor for the State of Telangana while resisting the request would submit that it is the petitioner, who has approached the mother and sister of the *de facto* complainant, with a job offer at Saudi Arabia, and, in fact, they were sent to Saudi Arabia on monthly salary of '12,000 Saudi Riyals' and since January, 2017, no salary was being paid to them, nor providing any food and medicines, torturing both of them physically and mentally and that the driver of the sponsor of her sister sexually exploited her and committed rape on her continuously for a week which she learnt from her mother and sister when they telephoned and informed about the same. The petitioner herein collected Rs.1,00,000/- towards travelling expenses and another Rs.50,000/- to bring back the mother and sister of the *de facto* complainant from Saudi Arabia, but, till date, he did not do anything and played fraud.

6. Perused the Case Diary produced by the learned Additional Public Prosecutor.

7. Now the short point that arises for consideration is whether the request for grant of anticipatory bail to the petitioner can be acceded to?

8. A particular fact cannot be lost sight off. It is the petitioner herein who visited the house of the *de facto* complainant's mother and

sister and had come up with the proposal that there was job offer for her mother and sister and thus, involved in sending them to Saudi Arabia. It appears that he has not given details of the sponsor and the fact that he collected Rs.50,000/- from the *de facto* complainant's mother and sister to bring them back from Saudi Arabia cannot be also ignored so far as the offence of cheating is concerned.

9. In that view of the matter, it cannot be said that there are no allegations *prima facie* to hold that the petitioner has not committed any offence. Hence, it is not a case where anticipatory bail can be granted to the petitioner.

Therefore, the Criminal Petition is dismissed.

A. SHANKAR NARAYANA, J

July 13, 2017.

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