

HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.2876 of 2017

ORDER:

This criminal petition is filed under Section 438 of the Criminal Procedure of Code, by the petitioner, who is not an accused in Crime No.289 of 2017 of P.S. Vigilance & APTS Team-I, Hyderabad, seeking a direction to the Station House Officer to release the petitioner in the event of his arrest in the above said crime.

The APTSpolice consisting of ADE, DPE, Hyderabad, inspected the premises bearing No.13-4-419, and found that the service connection was disconnected and the supply is found tapped directly from the nearby LT OH lines by means of service wire and utilizing for non-domestic purpose i.e., cloth shop, unauthorizedly. Previously the premises was inspected on 20.05.2014 by Sri P.Vidya Sagar, ADE/ DPE/ Medak and booked a case under Section 135(1) of the Electricity Act and this is the second offence registered against the consumer.

The contention of the petitioner is that no crime is registered against him, but still the concerned police are moving around his house, as they could not secure the presence of the accused in the above offence.

No doubt, the anticipatory bail can be granted by exercising power under Section 438 Cr.P.C., when the petitioner is apprehending arrest based on a reasonable belief that he would be arrested in connection with a non-bailable offence and such belief must be based on a tangible material. Here, undisputedly, no crime is registered against the petitioner and the crime was registered against one Md.Yusuf and

Md.Fareet. Therefore, there is absolutely no tangible material in support of the reasonable belief that the petitioner is likely to be arrested in a non-bailable offence.

Grant of pre-arrest bail when no crime was registered for no offence, is permissible if the reasonable belief is supported by tangible evidence in view of the law laid down by the Supreme Court in Gurubaksh Singh vs. State of Punjab¹, but no material is available to conclude that the apprehension is reasonable.

In view of the law declared by the Apex Court, this Court cannot grant a blanket order granting pre-arrest bail to the petitioner extending protection from his arrest. Even according to the petitioner, no crime was registered and therefore, there is no base for the apprehension. Hence, I find no tangible material in support of the apprehension of the petitioner that he is likely to be arrested in connection with non-bailable offence. In such case, the Court cannot grant pre-arrest bail on mere asking to protect the petitioner from every offence. Hence, I find no ground to grant pre-arrest bail to the petitioner.

Accordingly, the Criminal Petition is dismissed.

April 27, 2017.
KTL

M. SATYANARAYANA MURTHY, J

¹ AIR 1980 SC 1632.