

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.2116 and 2226 of 2017

ORDER:

These two Criminal Petition under Sections 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), are filed to enlarge the petitioners/A.2 and A.3 in the event of their arrest since they are apprehending arrest in connection with Cr. No.14 of 2017 on the file of I Town Police Station, Vizianagaram, registered for the offences punishable under Sections 420, 406, 468, 471 r/w 120 (b) of IPC.

Petitioner No.1 is an employee in Asix Bank at Vizianagaram Branch and Petitioner No.2 is the custodian of gold jewellery pledged with the bank.

The case of the prosecution is that some borrowers availed gold loans and the purity of the said gold was certified by the appraiser, the petitioners are under obligation to preserve the gold ornaments in their custody deposited by the borrowers for sanction of the loan. On coming to know that the gold deposited by some of the borrowers is spurious and not genuine, the Manager of the said Bank lodged a complaint against the petitioners and some others and on the strength of the complaint, the present crime was registered by the police.

It is the case of the petitioners that they are only the custodians of the gold and gold was kept in their custody after obtaining certificate from the appraiser certifying the purity of the gold and they are no way concerned with the offences as alleged being the custodian and employees of the bank. No doubt, gold

appraiser issued a certificate certifying the purity of the gold pledged with the bank against the advance of certain amount. The gold ornaments have been in the custody of the petitioners only during the period of pledge. When the appraiser certified the purity of gold, if any defect is found in the purity of the gold, the custodian alone be responsible. However, some times, there may be an occasion to certify the purity of gold falsely, it is difficult to find out who is responsible for the offences punishable as alleged. Neither the appraiser or these petitioners or all of them can be made liable for such offence *prima facie*.

Therefore, it is not a fit case to grant pre-arrest bail to the petitioners at this stage as the investigation is not completed and the petitioners are being the employee successfully avoid the arrest by the police during investigation. Hence, I find that it is not a fit case to grant of pre-arrest bail to the petitioners and therefore, these two criminal petitions are liable to be dismissed.

Accordingly, these two Criminal Petitions are dismissed.

Miscellaneous petitions, if any, pending in these criminal petitions, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date:04.04.2017
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Dt.04-04-2017

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