

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.393 of 2017

ORDER:

The petitioner/Accused filed the present application under Section 438 Cr.P.C., to release him in the event of his arrest in connection with Crime No.232 of 2016 of Thipparthi Police Station, Nalgonda District, registered for the offences punishable under Sections 420 and 409 IPC.

2. The petitioner is the Village Revenue Officer (VRO) of Thipparthi Mandal. While discharging his duties as VRO, he allegedly tampered the revenue records (mutation register) in respect of land to an extent of Ac.2.00 guntas in survey Nos.154 and 155, belonging to one Viswanadha Biksham and his wife Eswaramma and entered name of another person by name Nagari Rajalu without intimation to the land owners and thereby committed the aforesaid offences.

3. The contention of the petitioner is that the alleged tampering was only while discharging his official duties as VRO and as a public servant within the meaning of Section 21 IPC; that the complaint cannot be lodged before completion of the departmental enquiry under CCA Rules; that there is no material against the petitioner to come to *prima facie* conclusion that he is the person who tampered the records etc; and that he is suffering from ill-health.

4. The first and foremost contention is that lodging the complaint without obtaining sanction from the Government. The petitioner is a public servant, who is removable without the sanction of the Government, attracts clause (1) of Section 197 Cr.P.C. and no material is brought on record to show that any notification was issued to include these Village Revenue Officers by exercising the power

under Section 197 (3) Cr.P.C. Therefore, he is not entitled to claim immunity under Section 197 (1) Cr.P.C. Consequently on this ground pre-arrest bail cannot be granted.

5. The other contention of the petitioner is that he was placed under suspension, for which act, departmental proceedings are initiated under CCA Rules and the same are still pending. The departmental proceedings and criminal proceedings are entirely different. Therefore, pendency of departmental proceedings is not a ground to grant pre-arrest bail to the petitioner, consequently, on this ground the petitioner is not entitled to claim a pre-arrest bail.

6. Considering the facts and circumstances of the case, there is *prima facie* material to come to a conclusion that the petitioner is an official, who made such entries in the mutation register being custodian and it is question of fact which has to be decided during trial. However, curiously the petitioner submitted to this Court that the said Viswanadha Biksham and his wife Eswaramma entered into compromise with the said Nagari Rajalu, who gave complaint against them. But, the said terms of compromise were not brought before this Court. In any view of the matter, the alleged compromise would not have any effect on the alleged offences committed by the petitioner, to claim pre-arrest bail and on the other hand, it is an additional link against this petitioner to rope him with the offences alleged. Considering the substance of the case, I find *prima facie*, material against the petitioner for the offence punishable under Section 420 and 409 IPC, hence, he is not entitled to pre-arrest bail. Learned counsel for the petitioner requested the Court that a direction be issued to police to investigate the case by following the guidelines in

Arnesh Kumar v. State of Bihar and another¹. But, it is not a case where such direction need be issued. However, the Investigating Officer is bound to follow the guidelines laid down ***Arnesh Kumar's case***. Therefore, no direction need be issued.

7. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M.SATYANARAYANA MURTHY, J

JANUARY 27, 2017

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¹ 2014 (2) ALT (CrI.) 457 (SC)

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Date: 27.01.2017

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