THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.1882 OF 2017

ORDER:

This criminal petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to grant pre-arrest bail to the petitioner/A.3 apprehending his arrest in connection with Crime No.80 of 2014 of Ajith Singh Nagar Police Station, Vijayawada, Krishna District, registered for the offences punishable under Sections 420, 406, 506 read with 34 of the Indian Penal Code, 1860 (for short 'I.P.C.').

The case of the prosecution, in brief, is that the petitioner along with A.1 and A.2 approached the *de facto* complainant and made her to believe that they established Co-Operative Society in the name and style of Sri Vasudha Co-operative Society and also made her to believe that if she deposited an amount of Rs.10 lakhs in the said Society, they will pay the said the amount more than three times i.e. Rs.30 lakhs within a period of five years in several installments and they issued seven cheques in the name of the *de facto* complainant for Rs.5,75,000/- with fraudulent intention. Later on 06.08.2013 A.1 and A.2 collected Rs.1,00,000/- from the *de facto* complainant agreeing to repay the same in seven monthly installments that is, on or before 06.03.2014 with all arrears and they would pay total amount of Rs.30,00,000/-, they also issued cheques for a sum of Rs.10,00,000/- made her to believe that they will get huge amount. Thus, the petitioner/A.3 along with A.1 and A.2 dishonestly induced the *de facto* complainant to part with an amount of Rs.10,00,000/- on the false promise made by them to pay

Rs.30,00,000/- within a year. On the strength of the complaint, the police registered the case and issued F.I.R.

The case of the petitioner before this court is that he was neither a Director nor an employee in Vasudha Co-Operative Society. In such case no liability can be attached to the petitioner and drawn the attention of this court to the list of Directors and bye-laws of Sri Vasudha Co-operative Society.

As seen from the material on record, the petitioner is not the Director of the Society. In any view of the matter, the petitioner along with A.1 and A.2 made a representation to the *de facto* complainant with a dishonest intention and induced her to part with an amount of Rs.10,00,000/- promising to pay Rs.30,00,000/- within a year. Therefore, when the petitioner made such promise, collected huge amount is equally liable for the offence allegedly committed by them. The entire investigation in this case is completed, but the petitioner successfully avoiding his arrest by the police and not cooperating with the investigation, hence the petitioner is disentitled to claim pre-arrest bail, since it is purely discretionary relief and such discretion can be exercised judiciously, when the court comes to the conclusion, *prima-facie,* that the petitioner did commit no offence and there is no possibility of interference with further investigation. But here the material on record shows that the petitioner made fraudulent representation and induced the *de facto* complainant to part with huge amount, thereby he is disentitled to claim pre-arrest bail in view of the law declared by the Apex Court in ***Gurbaksh Singh Sibbia v. State of***

Punjab[1]. Hence, I find no ground to enlarge the petitioner on pre-arrest bail.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY, J

28.03.2017
BV

[1] AIR 1980 SC 1632