

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.3299 OF 2017

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioner on bail in the event of his arrest in connection with Crime No.34 of 2016 of Dundgal Police Station, Cyberabad, registered for the offence punishable under Section 420 of IPC.

The Special Grade Deputy Collector, Revenue Divisional Officer, Malkajgiri Division lodged a complaint based on news item (adverse news item) about creation of pattas alleging that one Nagaraju took print outs of 78 pattas allegedly covered by G.O.Ms.No.58 in Survey No.57 in total extent of Ac.03.27 gts for providing house sites to weaker sections and land to an extent of Ac.09.30 gts in Survey No.131 allotted to Rajiv Swagruha houses.

The main contention of the petitioner is that he is carrying on business and he is no way concerned with the affairs of the respondent. The entire report discloses that one Nagaraju, a private computer operator is the person, who took print outs of the pattas from the coumputer as if pattas were granted to the beneficiaries shown in the pattas, but no such pattas were granted by the department to any such person covered by 78 pattas.

Learned counsel for the petitioner contended that the petitioner was not the person, who is working in the respondent office and he is carrying on different business and the name of the petitioner is Kopalli Nagarjun Kumar, but not Nagaraju, the alleged private computer operator, and that when the petitioner is not the

accused, he cannot be arrested by the police in the above crime and prayed to grant pre-arrest bail.

Learned Additional Public Prosecutor would contend that admittedly a crime was registered against Nagaraj, not against K.Nagarjun Kumar, the petitioner herein and that when the petitioner is not the accused, the question of his arrest in the above crime does not arise.

No doubt, this Court can exercise jurisdiction under Section 438 of Cr.P.C. when the petitioner is apprehending his arrest on reasonable belief that he would be arrested for non-bailable offence and if it is supported by tangible material, the Court can grant pre-arrest bail. The Constitution Bench of the Apex Court in “**Gurbaksh Singh Sibbia v. State of Punjab**” held as follows:

“We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is proposition No. (2). We agree that a 'blanket order' of anticipatory bail should not generally be passed. This flows from the very language of the section which, as discussed above, requires the applicant to show that he has 'reason to believe' that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. That is why, normally, a direction should not issue under Section 438(1) to the effect that the applicant shall be released on bail 'whenever arrested for whichever offence whatsoever.' That is what is meant by a 'blanket order' of anticipatory bail, an order which serves as a blanket to cover or protect any and every kind of allegedly unlawful activity, in fact any eventuality, likely or unlikely regarding which, no concrete information can possibly be had. The rationale of a direction under Section 438(1) is the belief of the applicant founded on reasonable grounds that he may be arrested for a non-bailable offence. It is unrealistic to expect the applicant to draw up his application with the meticulousness of a pleading in a civil case and

such is not requirement of the section. But specific events and facts must be disclosed by the applicant in order to enable the court to judge of the reasonableness of his belief, the existence of which is the sine qua non of the exercise of power conferred by the section."

In view of the law declared by the Apex Court, if there is tangible material for the reasonable belief that if a person/petitioner is likely to be arrested in connection with the non bailable offence, this Court can exercise jurisdiction under Section 438 of Cr.P.C. But here the petitioner was not arrayed as accused in the above crime and the person arrayed as an accused is only Nagaraj. In such a case, the question of his arrest in the above crime does not arise and that too his apprehension is not based on tangible evidence. Therefore, I find no ground to grant pre-arrest bail to the petitioner. However, the petitioner is at liberty to renew his request at appropriate time whenever a crime is registered against him before appropriate Court.

With the above observation, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

28.04.2017
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