

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.1414 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/ Accused in the event his arrest in connection with Crime No.1019 of 2015 of Banjara Hills Police Station, Hyderabad, registered for the offences punishable under Sections 408 and 420 of the Indian Penal Code, 1860 (for short 'I.P.C.').

The specific allegations made against the petitioner are that on 14.09.2015 at about 14-00 hours the Police, Banjara Hills Police Station, Hyderabad, received an information from M/s.Qatar Airways alleging that the petitioner joined in Qatar Airways on 21.02.2011 as 'Airport Service Agent' and was assigned to work at Hyderabad subsequently he was transferred from Airport to Hyderabad City Office with effect from 21.08.2013 and re-designated as 'Ticketing Agent' and his duty was to book Air tickets of the International Passengers traveling through Qatar Airways flights, and remit the daily cash collected from the passengers to the company accounts through a cash collector. But the *de facto* complainant did not suspect the petitioner initially, later while auditing it was found that the petitioner embezzled the company's amount to a tune of Rs.12,84,065/- in 11 transactions on different dates between the period of 02.08.2014 to 15.01.2015, later he paid certain amount, but misappropriated huge amount belonging to the *de facto* complainant-M/s.Qatar Airways.

The present petition is filed on the ground that the petitioner did commit no offence and that certificates were retained with the

de facto complainant and he was insisted to pay an amount of Rs.3,50,000/- to issue NOC to the petitioner since he joined in other Airways and thus the said payment was not towards the amount allegedly embezzled and prayed to grant pre-arrest bail.

During hearing learned counsel for the petitioner reiterated the grounds urged in the petition itself.

The Public Prosecutor for the State of Telangana opposed the petition on the ground that huge amount was embezzled by the petitioner, which is clear on record, and repaid an amount of Rs.3,50,000/- subsequent to removal from the office, the said payment was not for issue of NOC.

It is an undisputed fact that the petitioner worked as 'Ticketing Agent' in Hyderabad City Office and he used to collect the amount from various passengers journey undertaking by Qatar Airways, but the petitioner did not remit the amount to the *de facto* complainant's account as per the procedure and committed misappropriation of more than 12 lakhs. Therefore, the petitioner, being an agent, is under an obligation to account for the amount and failure to remit would fall within Section 408 I.P.C. i.e. criminal breach of trust by clerk or servant. Payment of Rs.3,50,000/- on two occasions (Rs.1,00,000/- + Rs.2,50,000/-) itself would show, *prima facie*, that the petitioner misappropriated the amount belonging to the *de facto* complainant- M/s.Qatar Airways, otherwise there is no need for him to pay Rs.3,50,000/- for issuing NOC.

The normal practice for issuing NOC is that the petitioner has to clear the entire dues to the *de facto* complainant – M/s. Qatar airways and that as part payment, he paid Rs.3,50,000/- for issuing NOC. Therefore, material on record including payment of an amount Rs.3,50,000/- clearly show that the petitioner did commit breach of

trust, being the servant, which is punishable with imprisonment for 7 years and also liable for payment of fine.

Therefore, I find *prima facie* material against the petitioner for the offence punishable under Section 408 I.P.C., so also under Section 420 I.P.C. and I find no ground to grant pre-arrest bail to the petitioner and the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

M. SATYANARAYANA MURTHY, J

07.03.2017
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