

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.17242 OF 2016

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, who is apprehending arrest in connection with Crime No.635 of 2016 of Machavaram Police Station, Vijayawada City, Krishna District, for the offence punishable under Sections 420, 406 and 120(b) of Indian Penal Code, 1860 (for short 'I.P.C.').

It is an admitted fact that the petitioner is not arrayed as accused in the above crime, but the police are allegedly moving around the house of the petitioner to implicate him in the above crime and prayed to grant pre-arrest bail in connection with the above crime.

Normally, a blanket order of pre-arrest bail cannot be granted unless the apprehension must be reasonable based on some tangible material. Here, except making the allegation that the police are moving around the house of the petitioner, no piece of evidence is brought on record to accept the contention of the petitioner. In **GURBAKSH SINGH SIBBIA ETC., V. STATE OF PUNJAB**¹ the Apex Court 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 preposition No. (2). We agree that a ‘blanket order’ of

¹ AIR (1980) SC 1632

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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 the present case, the petitioner contended that he is likely to be arrested in connection with the above crime, though he was not arrayed as accused in the FIR and earlier A.1 to A.17 were arrested based on TV channel visuals, but in the entire petition no allegation was made that the police are moving around the house of the petitioner, therefore, this petition is contrary to the law laid down by the Apex Court in **GURBAKSH SINGH SIBBIA ETC., V. STATE OF PUNJAB** (1supra) and the blanket order cannot be granted with the apprehension, which is not reasonable and not based on any tangible

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material. Hence, I find no ground to grant pre-arrest bail and the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY,J

31.01.2017
BV

