THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.304 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.4, who is apprehending arrest in connection with Crime No.344 of 2016 of Yellandu Police Station, Badradri - Kothagudem District, for the offences punishable under Sections 409 and 420 of the Indian Penal Code, 1860 (for short 'I.P.C.').

It is the case of the petitioner that he is working as Welfare Officer in Singareni Collieries Company Ltd., in a far place from the place where the alleged offence took place, thereby question of interference with the further investigation does not arise and that apart material on record does not disclose any offence, the proceedings Rc.No.185/15-C/A-4 dated 19.09.2016 issued by the Deputy Registrar of Co-op.Societies, Kothagudem, under Section 60(1) of TSCS Act, 1964, made it clear the liability of the petitioner and others was Rs.28,84,026/- by 31.08.2016 and thereby the petitioner did commit no offence and prayed to grant pre-arrest bail.

The petitioner is an Officer in Singareni Collories and by virtue of his employment, he worked as an Ex-Officio Secretary and during the said period, there was an alleged misappropriation to a tune of Rs.1,15,68,481/-, thereby cheated the members of the Society at large and the Assistant Registrar, District Co-op. Office, Bhadradri, Kothagudem, addressed a letter dated 22.12.2016

stating that in the inquiry, surcharge proceedings were initiated and found misappropriation of certain amount in the society.

Now the contention of the counsel for the petitioner before this court is that the petitioner was already transferred to Peddapalli from Yellandu and discharging his duties as an officer in Singareni Collories at Peddapalli, thereby question of his interference with the further investigation in the event enlarging him on pre-arrest bail does not arise and that apart there is no material directly pointing out the involvement of the petitioner in the crime. Therefore, prayed to enlarge the petitioner on bail.

Learned Public Prosecutor opposed the petition contending that in the event the petitioner is enlarged on bail, there is every possibility of interference with further investigation as the entire misappropriation is based on documentary evidence and unless the investigation is completed, the petitioner cannot be enlarged on bail, at this stage.

Undisputedly, the petitioner is an employee and Ex-Officio Secretary of the Co.Op. Society. During his tenure, allegedly misappropriated an amount of Rs.1,15,68,481/-, but finally surcharge proceedings were limited to Rs.28,84,026/- up to 31.08.2016. Even then the material including surcharge proceedings would go to show that the petitioner is responsible for such alleged misappropriation.

To grant pre-arrest bail, the court has to record its satisfaction that there is no *prima-facie* material against the petitioner to conclude that he did commit no offence and that the

gravity of the offence, possibility of tampering the evidence and interference with further investigation.

Undisputedly, the petitioner is working at Peddapalli, which is far place from Yellandu, but investigation is not yet completed and the main offence allegedly committed by the petitioner is misappropriation of Rs.1,15,68,481/- which belongs to the members of Society at large. The contention of the petitioner is only payment of excess dividend to various shareholders in the Society. Whether this payment of excess dividend or otherwise is a matter of investigation to be decided by the investigating agency and at this stage it is difficult to grant pre-arrest bail when there is no *prima facie* material to conclude that the petitioner committed the alleged offence and that apart even if payment is by way of excess dividend, still it amounts to, *prima facie*, misappropriation either temporary or permanent. In such a case, I am not inclined to grant pre-arrest bail to the petitioner. Hence, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY,J

30.01.2017
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