

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.7826 of 2017

ORDER:

1 This criminal petition is filed, by the petitioner/accused No.4 under Section 438 Cr.P.C., seeking anticipatory bail in Crime No.49 of 2017 on the file of the Station House Officer, Jubilee Hills Police Station Hyderabad registered for the offences punishable under Sections 406, 420, 468 and 471 r/w 34 of IPC.

2 The learned counsel for the petitioner submitted that even if the allegations made in the complaint are ex facie taken to be true and correct, no prima facie case is made out against the petitioner for the offence punishable under Section 420 IPC. He further submitted that the lis, if any, involved between the parties is purely civil in nature, without any element of criminality, therefore, the petitioner is entitled to pre-arrest bail.

3 *Per contra*, the learned Additional Public Prosecutor submitted that this Court dismissed the previous petition filed by the petitioner under Section 438 Cr.P.C. and there are no changed circumstances from the date of dismissal of the previous petition till date. He further submitted that the petitioner involved in number of cases.

4 The case of the prosecution is that the petitioner herein representing that he is in real estate business and is having several plots in Jubilee Hills, Journalist Colony and Nava Nirmana Colony, Hyderabad, roped the de facto complainant in the alleged business and demanded an amount of Rs.40.00 lakhs towards goodwill. Believing the words of the petitioner, the de facto complainant paid

the money. It is the further case of the prosecution that the petitioner gave 10 cheques, for Rs.5.00 lakhs each, putting signature on each cheque in different manner and all the cheques were bounced on presentation by the de facto complainant. The petitioner also executed a Memorandum of Understanding agreeing to transfer property which is situated in West Godavari District. The gist of the allegations made in the complaint is that the petitioner herein along with other accused cheated the de facto complainant.

5 The petitioner filed CrI.P.No.1658 of 2017 under Section 438 Cr.P.C. and the same was dismissed by this Court on 06.03.2017 with the following observations:

7. In that view of the matter and as some other crimes i.e. Cr.Nos.113/2016, 435/2016 and C.C.No.386 of 2015 are pending against A.1 and A.4 and investigation in the present crime is in the nascent stage, bail is refused to A.4 – Velagapudi Ramakrishna. So far as the petitioners A.5 to A.10 are concerned, the FIR allegations would show that amounts were paid to A.1 and A.4 in the presence of other accused and they also promised that sites would be handed over to complainant and some of the family members of A.4 executed MoU in favour complainant. Considering the fact that allegations against these petitioners are not as grave as against A.1 and A.4 and further, some of the petitioners are ladies, bail is granted to them.

6 A perusal of the record reveals that the petitioner involved in similar type of offences. While deciding the petitions filed under Section 438 Cr.P.C., the Court has to consider whether there is any prima facie material or not. If there is no prima facie material, the petitioner is entitled to pre-arrest bail. This Court already made an observation that there is a prima facie case against the petitioner. A perusal of the record reveals the role played by the petitioner in the commission of the offence.

7 Taking into consideration the gravity of the offences alleged to have been committed by the petitioner, this Court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioner.

8 the result, the petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 6th October, 2017

Kvsn

