

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Crl.P.No.3322 of 2017

ORDER:

Petitioners/A1 and A5 filed this Criminal Petition under Section 438 Cr.P.C. seeking anticipatory bail in Cr.No.377 of 2017.

2) On the report given by the complainant, the police of Miyapur registered Cr.No.377 of 2017 for the offence under Section 3(1) of the Schedule Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short SC and ST (POA) Act) and Sections 342, 323, 504 and 506 of Indian Penal Code (IPC) and investigation is reported to be pending.

3) Brief facts of the compliant are that complainant and 1st petitioner/A1 entered into an agreement to sell one acre of land for a sum of Rs.46 lakhs and since disputes are pending in the High Court in respect of that land registration could not be done. Upon demand of A1, in view of advance amount of Rs.6,50,000/- paid by him earlier, complainant gave three cheques as security in favour of 1st petitioner/A1. When the said cheques were bounced, 1st petitioner/A1 filed three criminal cases under Section 138 of NI Act against the complainant which are pending. As the complainant did not appear before the Court, NBW was issued against him and III Special Magistrate, Miyapur appointed advocate Sri P.Ravi Kiran (A2) for execution of warrant. On 22.03.2017, A2 came to their village—Ponnur along with the police and took him to custody. A1, A2 along with complainant reached Hyderabad

in the night. They stayed in M/s. SS Lodge. The accused have illegally confined the complainant and his first son—Abhyudaya in Room No.107. Petitioners/A1 and A5 stood outside of the room guarding them. In the lodge they abused him in the name of caste. On 24.03.2017, A3 and A4 came to the lodge and demanded Rs.16 lakhs from the complainant and threatened that if he failed to pay the amount, they would lodge another case against the complainant as if he absconded. They obtained his signatures on some stamp papers and white papers. Thereafter, the 2nd son of the complainant, who also came there, secured Rs.3 lakhs and transferred to the account of A1 by RTGS. Thereafter, the accused produced the complainant before the III Special Judge, Miyapur. There the complainant paid Rs.1 lakh to the 1st petitioner/A1 as a measure of compromise. However, 1st petitioner/A1 denied having received the amount and therefore, the learned Magistrate remanded the complainant to the judicial custody. The complainant further alleged that for effecting compromise he paid Rs.57,000/- to A3 also. On 30.03.2017, the complainant was enlarged on bail and thereafter, he approached Miyapur PS and lodged the report. Investigation is reported to be pending.

4) Denying the compliant allegations, learned counsel for petitioners/A1 and A5 would submit that since 1st petitioner/A1 filed three criminal cases under Section 138 of NI Act, the complainant lodged a false complaint against them and there is no truth in it. He would submit that if really the accused have wrongfully confined him in lodge, that fact should have been submitted before the learned

Magistrate when he was produced. He did not make any whisper about the alleged wrongful confinement and abuse which goes to show that all the complaint allegations are fabricated ones. Learned counsel thus prayed to grant bail.

5) Learned Additional Public Prosecutor opposed the bail on the submission that complaint allegations reveal severe offence of wrongful restraint of the complainant and his son and also abusing them in the name of their caste. He submitted that investigation is in nascent stage. He thus prayed to dismiss the petition.

6) As can be seen from the complaint allegations, there is a *prima facie* accusation against the accused that they illegally detained the complainant and his son in the lodge room and abused them in the name of their caste. Of course, the other contention whether the alleged place where the complainant and his son were detained and abused was within the public view in terms of Section 3(1)(x) of SC and ST (POA) Act or not is the subject matter of evaluation of evidence during the course of trial. However, as the matter stands, there is a *prima facie* accusation against the petitioners/A1 and A5.

7) Learned counsel for petitioners in his reply argument would admit that though not in the first bail application, in the second bail application during the enquiry the complainant has made allegation that he was illegally detained. The remand report produced by the Additional Public Prosecutor shows that investigation is at the threshold and the statement of the complainant alone is recorded. Having regard to the above facts

disclosing grave offence and investigation is at the preliminary stage, it is not a fit case to grant anticipatory bail to the petitioners/A1 and A5.

8) Accordingly, this bail application is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 02.06.2017
Murthy

