

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No. 789 OF 2017

ORDER:

This Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') seeking release of the petitioner in the event of his arrest in connection with Crime No.1062 of 2016 of Banjara Hills Police Station, Hyderabad. The petitioner allegedly committed an offence punishable under Section 395 of IPC and apprehending his arrest in the above crime.

2. It is a case of dacoity which is punishable under Section 395 of IPC. One Laxman Agarwal lodged a complaint with the police against the petitioner along with other accused who are 17 in total alleging that he is carrying on business at Bhadradri District, Kottagudem for the last five years and is working as Airtel Distributor and his daily business transaction would be around 3 to 4 lakhs. During the period, the informant noticed about exchange of notes after demonetization to which he collected money from known persons for about 40 lakhs which were of old and new currency notes (Rs.100/- and Rs.2000/-). By taking the said amount the informant proceeded from Kottagudem to Hyderabad on 30.11.2016 and stayed at his brother's house. On the next day i.e., on 01.12.2016, for exchange of old currency, brother of the informant contacted one Mallesh to which Mallesh replied and asked him to come near Big Bazaar, Ameerpet. Thereafter, the informant and his brother along with cash in Wagon-R vehicle reached Big Bazaar, Ameerpet at 1700 hours. The said Mallesh came in another car and asked to follow his car and took them to film nagar, Banjara Hills Road No.14. There another person by name Satish came and took them to guest house bearing No.67/A wherein 6 to 7 persons were present including one lady. When the informant asked about exchange, Satish called one Raju, who in turn called Thiru Mallesh Naidu. Thiru Mallesh

Naidu asked about the money, to which, the informant replied that cash is on the way and it is coming. By saying so time passed for about one hour. Then all the persons placed cash on the table. All of a sudden seven members entered into the house among whom, one was in police uniform carrying revolver and introduced himself as Inspector, whereas the remaining are his staff. They further told that they received information about exchange of money and so they raided the house. On seeing them, the informant along with others hide in the bathroom. The said seven members called them and made them to sit at one place, their phones were switched off and obtained their details by threatening them saying that a criminal case would be filed and media is outside the house and asked them about old notes. Then the informant replied that it was with Thiru Mallesh Naidu and the said Thiru Mallesh Naidu denied possessing the cash. The uniformed persons gave 15 minutes time to disclose about the details, thereafter they disclosed about the details and they snatched the entire old currency of Rs.40 lakhs and on the strength of the complaint, the police registered the above crime.

3. The main contention raised by the learned counsel for the petitioner is that he is follower of A1 and A1 is the political leader and they hatched a plan and snatched Rs.40 lakhs from the possession of the defacto complainant and others.

4. Though the facts narrated in the complaint appears to be a story like cinema, but the allegations in the complaint would show that the accused snatched away Rs.40 lakhs from the possession of the defacto complainant and others. Committing such a serious offence of decoity in the guise of exchange of old currency notes for the new currency after demonetization is a serious crime and the petitioner along with others committing such a serious offence is not entitled for any relief as they snatched away and robbed about Rs.40 lakhs from the possession of the defacto complainant and others and hence they cannot be enlarged on anticipatory bail at this stage.

5. The grant of pre-arrest bail is a matter of discretion of the Court and grant of such bail depends on factual circumstances. Unless the petitioner shows certain exceptional circumstances, the claim for pre-arrest bail cannot be considered.

6. In the present case, the petitioner, with the help of A1 and other accused including political leaders, in the guise of exchange of old currency notes for new currency notes, after demonetization, took advantage of the situation and committed such a grave offence.

7. In view of the above and as the material on record clearly discloses that prima facie the petitioner committed an offence punishable under Section 395 of IPC along with other accused, I am not inclined to exercise discretion to grant pre-arrest bail to the petitioner. Consequently, the petition is liable to be dismissed and in the result the petition is dismissed.

Date.14.02.2017.
vhb

JUSTICE M. SATYANARAYANA MURTHY

