

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3898 OF 2017

ORDER:

The present petition is filed under Section 438 of the Code of Criminal Procedure, 1973, by the petitioner for grant of anticipatory bail in the event of his arrest in Crime No.516 of 2016 of Falaknama Police Station, Hyderabad city.

2. The petitioner is arraigned as accused No.1 and he alleged to have committed the offence punishable under Section 420 read with 34 IPC along with accused No.2.

3. Heard Sri K. Venumadhav, learned counsel for the petitioner and learned Additional Public Prosecutor for the State of Telangana.

4. Learned counsel for the petitioner would submit that the petitioner is totally innocent and falsely implicated and even otherwise, the prosecution reveals that it is nothing but a civil transaction and the *de facto* complainant ought to have resorted to the remedy under civil law, but not lodging a complaint against the petitioner and accused No.2.

5. Learned Additional Public Prosecutor would submit that accused No.2 is involved in other crimes. However, so far as the petitioner-accused No.1 is concerned, the submission of the learned Additional Public Prosecutor before the Court below is that the petitioner, who is also a notorious offender and involved in several crimes. Even otherwise, the petitioner is not entitled to anticipatory bail for the reason that the petitioner along with accused No.2 hatched

a plan to deceive the *de facto* complainant by suppressing the ownership of the land, which was sought to be sold to the de facto complainant, in which transaction a sum of Rs.2,70,000/- was already received by them.

6. Perused the material on record including the First Information Report and it clearly reflects, prima facie allegations, showing the offence of cheating being committed by the petitioner along with accused No.2. In such an event, the petitioner is not entitled to anticipatory bail.

7. Accordingly, the criminal petition is dismissed.

8. Since the learned counsel for the petitioner urges that the Investigating Officer may be directed to resort to the procedure under Section 41A of the Code as the punishment provided for the offence under Section 420 IPC is less than seven years, acceding to the request, the Investigating Officer is directed to adhere to the procedure under Section 41-A of the Code and also to follow the guidelines laid down by the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar and another¹**.

9. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

12th July 2017

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¹ (2014) 8 SCC 273