

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.2160 OF 2017

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed by the petitioners, who are A-2, A-3 & A-4, in Crime No.208 of 2016 of III Town Police Station, Nellore, for the offences punishable under Sections 409 & 420 of the Indian Penal Code, 1860 (for short, "IPC") seeking a direction against the Station House Officer, III Town Police Station, Nellore, to release the petitioners on bail in the event of their arrest in connection with the above crime, apprehending their arrest.

2. The case of the prosecution, in brief, is that on 31.08.2015, the petitioner No.1/A-2 pledged 12 gold bangles weighing 260.0 grams and obtained loan of Rs.4,68,000/-; on 28.05.2015, the petitioner No.2/A-3 pledged gold locket weighing 172.0 grams and obtained loan of Rs.3,00,000/-; and, on 30.06.2015, the petitioner No.3/A-4 pledged gold locket weighing 148.0 grams and obtained loan of Rs.2,66,000/- from Union Bank of India, Main Branch, Trunk Road, Nellore. All the petitioners obtained loans by pledging gold ornaments, on certificates issued by one J. Eswar, who was working as Gold Appraiser in the said Bank. During audit, it was detected that the pledged gold items were not pure and they are of inferior quality and on reappraisal of the said gold ornaments, it was found that only 20% of the metal is gold and 80% of metal is silver and thus, the petitioners allegedly cheated the bank in collusion with the Gold Appraiser of the Bank

– J. Eswar, and obtained huge amount of Rs.10,00,000/- as loan and thereby committed offences punishable under Sections 409 & 420 IPC.

3. In the present criminal petition, the petitioners renewed their request made to this Court earlier in CrI.P.No.400 of 2017 without any changed circumstances. Unless there are changed circumstances, after dismissal of the earlier bail application, the Court cannot grant any bail to the petitioners at the same stage of investigation in view of the principle laid down by the Apex Court in the judgment reported in **State of Tamil Nadu vs. S.A. Raja**¹, wherein the Apex Court, in paragraphs 8 & 9, held that when a learned Single Judge of the same Court had denied bail to the respondent for certain reasons and that order was unsuccessfully challenged before the appellate forum, without there being any major change of circumstances, another fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. Of course, the principles of *res judicata* are not applicable to bail applications, but the repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents. Therefore, on this ground also, the petitioners are not entitled to claim bail.

4. Learned counsel for the petitioners could not bring to my notice any major changed circumstances after dismissal of the earlier bail application, except passing of time.

5. In view of the law declared by the Apex Court and as I find no major changed circumstances after the dismissal of the

¹ (2005)8 Supreme Court Cases 380

earlier bail application, I find no grounds to grant pre-arrest bail to the petitioners.

6. In the result, the Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this criminal petition shall stand closed.

JUSTICE M.SATYANARAYANA MURTHY

Date: 23rd March, 2017

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