

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.1783 OF 2017

ORDER:

This criminal petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to grant pre-arrest bail to the petitioner/Accused apprehending his arrest in connection with C.C. No.536 of 2016 pending on the file of Judicial Magistrate of First Class Excise, Karimnagar.

Undisputedly, the C.C. was registered based on the private complaint filed by the *de facto* complainant for the offence punishable under Section 138 of Negotiable Instrument Act, 1881 which is bailable offence. However, the petitioner claimed anticipatory bail in bailable offence. Section 438 of Cr.P.C. says that when any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail. But here admittedly the C.C. is pending for the offence punishable under Section 138 of Negotiable Instrument Act which is a bailable offence and therefore the application filed under Section 438 of Cr.P.C. is not maintainable. Hence, the criminal petition is liable to be dismissed on this ground without advertng to the merits of the case.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY, J

08.03.2017
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