

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.3206 OF 2017

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioner on bail in the event of his arrest in connection with Crime No.237 of 2016 of Karimnagar III Town Police Station, Karimnagar District, registered for the offences punishable under Sections 448, 324, 506, 306 read with 34 of IPC.

As seen from the record no crime was registered against this petitioner and even in the complaint there was no reference about the role played by this petitioner, but he is apprehending his arrest in the above crime.

No doubt, this Court can exercise jurisdiction under Section 438 of Cr.P.C. when the petitioner is apprehending his arrest on reasonable belief that he would be arrested for non-bailable offence and if it is supported by tangible material, the Court can grant pre-arrest bail. The Constitution Bench of the Apex Court in “**Gurbaksh Singh Sibbia v. State of Punjab**” held as follows:

“We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is proposition No. (2). We agree that a 'blanket order' of anticipatory bail should not generally be passed. This flows from the very language of the section which, as discussed above, requires the applicant to show that he has 'reason to believe' that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. That is why, normally, a direction should not issue under Section 438(1) to the effect that the applicant shall be released on bail 'whenever arrested for whichever offence whatsoever.' That is what is meant by

a 'blanket order' of anticipatory bail, an order which serves as a blanket to cover or protect any and every kind of allegedly unlawful activity, in fact any eventuality, likely or unlikely regarding which, no concrete information can possibly be had. The rationale of a direction under Section 438(1) is the belief of the applicant founded on reasonable grounds that he may be arrested for a non-bailable offence. It is unrealistic to expect the applicant to draw up his application with the meticulousness of a pleading in a civil case and such is not requirement of the section. But specific events and facts must be disclosed by the applicant in order to enable the court to judge of the reasonableness of his belief, the existence of which is the sine qua non of the exercise of power conferred by the section."

In view of the above judgment of the Apex Court, if there is tangible evidence to support reasonable belief that the petitioner is likely to be arrested in connection with the non bailable offence, this Court can exercise jurisdiction under Section 438 of Cr.P.C. But here there is no tangible material to support reasonable belief that the petitioner is likely to be arrested in non bailable offence. Therefore, I find no ground to grant pre-arrest bail to the petitioner. However, the petitioner is at liberty to renew his request at appropriate time whenever a crime is registered against him before appropriate Court.

With the above observation, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

26.04.2017
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