

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION No.2923 of 2017**

**ORDER**

This petition under Section 438 of Criminal Procedure Code is filed by Munukuntla Nithin and S. Sai Kumar Goud, who are not accused, apprehending their arrest in connection with Cr.No.432 of 2016 of Ibrahimpatnam Police Station, Cyberabad District, registered for the offences punishable under Section 3(1)(i)(r)(s)(x) of SCs & STs (POA) Act and u/s.324 r/w 34 IPC, and to direct the Station House Officer, Ibrahimpatnam Police Station, Cyberabad District, to release them on bail in the event of their arrest in the above crime.

2. As seen from the allegations in the complaint, A1 and A2, by name, Talla Raju and Danunjaya, abused the de-facto complainant-P. Srikanth raising his caste name and when he questioned them regarding abuses, the relatives of A1 and A2 beat him with hands and sticks and caused injuries and that though they are all aware that he belongs to scheduled caste, they abused him as they like and beat him. Thus, the petitioners claiming to be the relatives of A1 and A2 are apprehending their arrest and sought pre-arrest bail from this Court.

3. The police though received a complaint, did not register the crime against these petitioners for the aforesaid offences. Though part of investigation is completed, no material appears to have been collected against the petitioners to enrope them with the offences punishable under Sections 3(1)(i)(r)(s)(x) of SCs & STs (POA) Act and u/s.324 r/w 34 IPC. However, grant of pre-arrest bail is not a

matter of course and a blanket order cannot be passed directing the police to enlarge the petitioners on bail and this question came up before the Apex Court in **Gurbaksh Singh Sibbia vs State of Punjab**<sup>1</sup> wherein it was held in paragraph No.45 as under:

"We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is preposition 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.

Thus, to grant pre-arrest bail, there must be apprehension of arrest on reasonable grounds based on tangible evidence. But, in the present case, though the complaint was lodged making certain allegations against the relatives of A1 and A2, the police did not register the crime against these petitioners. Even as per the material produced before this Court by petitioners, no material was collected against them. Therefore, though the petitioners are claiming to be

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<sup>1</sup> AIR 1980 SC 1632

the relatives of A1 and A2, no material is brought on record in support of the reasonable grounds of arrest in connection with non-bailable offence based on tangible material. Making an allegation that they are apprehending arrest in connection with the above crime by itself is not sufficient and unless such apprehension is based on reasonable grounds, the Court cannot grant pre-arrest bail to the petitioners.

4. Yet another contention of learned Public Prosecutor is that there is a bar interdicting under Section 18 of SCs & STs (POA) Act to entertain the application under Section 438 Cr.P.C. In **Vilas Pandurang Pawar V. State of Maharashtra**<sup>2</sup>, the Supreme Court held that if the Court finds that the allegations made in the complaint would constitute the offence punishable under the provisions of SCs & STs (POA) Act, the Court can reject the bail. Here in this case, A1 and A2 abused the de-facto complainant raising his caste name, thereby insulted and humiliated him in the public view and that the relatives of A1 and A2 beat him with hands and sticks though they are all aware that the de-facto complainant belongs to scheduled caste and abused him in filthy language, but the exact filthy language used by relatives was not disclosed. In any view of the matter, though bar under Section 18 of SCs & STs (POA) Act may not apply to the present facts of the case, there is absolutely no tangible material in support of the reasonable apprehension of their arrest in a non-bailable offence. Therefore, I find that it is not a fit case to grant pre-arrest bail to the petitioners.

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<sup>2</sup> (2012) 8 SCC 795

5. In the result, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this petition shall stand dismissed.

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**M. SATYANARAYANA MURTHY, J**

18<sup>th</sup> April, 2017

sj

