

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION NO.6871 OF 2017

ORDER:

Petitioner, who is A2 in Cr.No.166 of 2016 on the file of Station House Officer, Arundelpet Police Station, Guntur Urban, Guntur District, registered for the offences punishable under Sections 420 and 506 r/w 34 IPC, filed this petition under Section 438 Cr.P.C. seeking anticipatory bail.

2. Learned counsel for the petitioner submitted that the petitioner could not comply with the orders of the Court; therefore, she is entitled for anticipatory bail.

3. Learned Additional Public Prosecutor representing the State submitted that the second anticipatory bail application is not maintainable.

4. A perusal of the record reveals that the petitioner filed Crl.M.P.No.552 of 2017 in Cr.No.166 of 2016 of Arundelpet Police Station, on the file of the XII Additional Sessions Judge, Guntur, under Section 438 Cr.P.C. The learned Additional Sessions Judge granted anticipatory bail to the petitioner, which is as follows:

“In the result, petition is allowed, granting anticipatory bail to the petitioner/accused no.2 in the event of her arrest. The petitioner/A2 is directed to surrender before the V Additional Junior Civil Judge, Guntur, in connection with Cr.No.166 of 2016 of Arundelpet Police Station, on or before 10.04.2017 and on such surrender, the V Additional Junior Civil Judge, Guntur is directed to release the petitioner/accused No.2 on her executing a bond for a sum of Rs.2,00,000/- (Rupees two lakhs only) with two sureties for a like sum each.”

5. In spite of condition imposed in Crl.M.P. No.552 of 2017, the petitioner did not choose to appear before the V Additional Junior Civil Judge, Guntur, on or before

10.04.2017. It is the case of the petitioner that the counsel who appeared on her behalf in the lower Court has not informed the order of the Court. The petitioner did not file a single scrap of paper or affidavit stating that when she came to know about passing of the order by the Court.

6. A perusal of the record reveals that the petitioner obtained certified copy of the order on 27.7.2017. The bail order was passed by the Court of XII Additional Sessions Judge, Guntur on 24.3.2017. It is the duty of the party to the proceedings to approach the counsel in order to ascertain the result of the petition. Be that as it may, the petitioner filed copy application on 25.7.2017 and received the same on 27.7.2017. The record clearly reveals that the Sessions Court dispatched the copy of the bail order to the trial court as well as the Investigating Agency on 25.3.2017 vide Dis.No.272. Had the petitioner approached the trial court, she might have known the conditions imposed in the bail order. Merely because the certified copy of the order dated 24.3.2017 was received by the petitioner on 27.7.2017 itself would not automatically create vested right in favour of the petitioner to file the present application. Even after receiving the bail order, the petitioner did not choose to approach the District and Sessions Court, for the reasons best known to her. No one is entitled to, as a matter of right, for the relief of pre arrest bail on the ground that the counsel did not inform about the result of the petition. Merely because the petitioner and her counsel belong to Hyderabad, that itself is not an excuse for filing fresh bail application without complying with the conditions imposed in the earlier pre arrest bail order. This Court is unable to understand, what prevented the petitioner to ascertain the result of the bail petition, even by making a phone call to the counsel, as

both of them are residing in Hyderabad, and comply with the conditions of the order or file any application if aggrieved by the conditions. There is no explanation in the petition through whom the petitioner came to know about the bail order, four months after passing the said order. As observed earlier, the petitioner has not complied with the conditions imposed in the bail order, and in such circumstances, in order to cover up lapses on the part of the petitioner, the possibility of filing the present petition cannot be ruled out completely.

7. It is the case of the prosecution that the petitioner induced the *de facto* complainant in the name of business and taken from him an amount of Rs.75.00 lakhs, by misrepresenting her identity. The gist of the allegations made in the complaint is that the petitioner cheated the *de facto* complainant and threatened him with dire consequences. The Court shall not lose sight of the impact of the alleged offence on the society.

8. Taking into consideration the nature of the offence alleged to have been committed by the petitioner as well as the pre arrest bail granted by the District and Sessions Court, this court is of the considered view that it is not a fit case to grant pre arrest bail to the petitioner.

9. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

DATED: 01-09-2017.

Hsd