

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5522 of 2017

ORDER:

1 This criminal petition is filed, by the petitioners/accused, under Section 438 Cr.P.C., seeking anticipatory bail in Crime No.191 of 2015 on the file of the Station House Officer, III Town Police Station, Nandyal, Kurnool district registered for the offences punishable under Sections 408, 409, 420, 465, 467, 468 and 477-A of IPC.

2 The learned counsel for the petitioner strenuously submitted that for the last two years, the investigating agency is not in a position to collect any incriminating material against the petitioner. He further submitted that even if the allegations made in the complaint are ex facie taken to be true and correct, no case is made out against the petitioner for the alleged offences. He further submitted that the petitioner was removed from service basing on the departmental enquiry. It is his further submission that there is a delay of one year in lodging the complaint and hence this is a fit case to grant pre arrest bail to the petitioner.

3 ***Per contra,*** the learned Additional Public Prosecutor representing the State submitted that the petitioner committed misappropriation of funds of the bank to the tune of Rs.19,80,804/-. He further submitted that the petitioner forged the signatures of the other branch managers and diverted the funds to the bank accounts of private individuals. He further submitted that in view of the seriousness of the allegations made against the petitioner, it is not a fit case to grant anticipatory bail to the petitioner.

4 The Chief Manager of State Bank of India, Nunipalle Branch, Nandyal Town is the de-facto complainant. The petitioner worked as branch manager of State Bank of India, Nunipalle Branch, Nandyal from 15.3.2009 to 15.3.2013. As per the prosecution version the petitioner fraudulently transferred the different types of subsidy amounts and crop loan amount to his personal account. It is further alleged that the petitioner forged the signature of the branch manager by name Srinivas Reddy and transferred an amount of Rs.3.00 lakhs to the account of one Nageswara Rao. It is further alleged that the petitioner misappropriated to the tune of Rs.5,13,775/- by drawing the amount from various accounts of the customers pertaining to housing loans and personal loans. The gist of the allegations made against the petitioner is that he committed misappropriation of the funds of the bank as well as customers to the tune Rs.19.00 lakhs while working as branch manager of State Bank of India, Nunipalle branch. A perusal of the record reveals that the petitioner filed CrI.M.P.No.407 of 2017 on the file of the Court of the III Additional District Judge, Kurnool at Nandyal under Section 438 Cr.P.C. and the same was dismissed on 24.03.2017.

5 The Court has to exercise the discretionary power vested in it under Section 438 Cr.P.C judiciously basing on sound principles of law. The very object of section 438 Cr.P.C is to strike balance between the personal liberty of the individual and the investigational powers of the investigating agency. A perusal of the record prima facie reveals the role played by the petitioner in commission of the alleged offences. The Court shall not lose sight of certain aspects, more particularly, the conduct of the accused.

6 Mere delay in lodging the complaint by itself is not a valid ground to grant anticipatory bail. So far as the government organisations are concerned, they have to follow certain procedure before lodging the complaint. The Court shall not lose sight of these aspects while deciding the petition under Section 438 Cr.P.C.

7 Taking the facts and circumstances of the case into consideration and the nature of the offences alleged to have been committed by the petitioner as well as the stage of investigation, this Court is of the considered view that it is not a fit case to grant pre arrest bail to the petitioner.

8 In the result, the petition is dismissed.

Date: 18th August 2017
Kvsn

T.SUNIL CHOWDARY, J

