

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4126 of 2017

ORDER:

This petition is filed, by the petitioner/accused No.2, under Section 438 Cr.P.C. seeking anticipatory bail in Crime No.115 of 2017 on the file of the Station House Officer, Tirupathi East Police Station, Tirupathi Urban, registered for the offences punishable under Sections 419 and 384 I.P.C.

2. The learned counsel for the petitioner strenuously submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner for the offences punishable under Sections 419 and 384 I.P.C. He further submitted that the petitioner is a doctor by profession and he has nothing to do with the alleged offences; therefore, it is a fit case to grant pre-arrest bail to the petitioner.

3. *Per contra*, the learned Additional Public Prosecutor strenuously submitted that accused Nos.3 to 5 approached accused No.1, who in turn taken them to the petitioner/accused No.2 in order to bring pressure on the *de-facto* complainant to withdraw his tender. He further submitted that the petitioner and accused No.1 have taken accused Nos.3 to 5 to Amaravathi and assured that the Government initiate enquiry against the *de-facto* complainant and taken an amount of Rs.30,000/-. He also submitted that it is not a fit case to grant bail to the petitioner.

4. To substantiate the argument, the learned counsel for the petitioner has drawn the attention of this Court to the unreported decision in **Byreddy Rajasekhara Reddy vs. State**, wherein at paragraph No.5 this Court held as follows:

“The learned senior counsel appearing for the petitioner, in support of his contentions, relied on a judgment of the Supreme Court in *Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors.* (AIR 2011 SC 312) wherein the Supreme Court issued certain guidelines for granting anticipatory bail, which are reproduced hereunder:

“The following factors and parameters can be taken into consideration while dealing with the anticipatory bail.

The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

The possibility of the applicant to flee from justice;

The possibility of the accused’s likelihood to repeat similar or the other offences.

Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the

court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

5. Let me consider the facts of the case in the light of the above legal principles.

6. The case of the prosecution is that the *de-facto* complainant submitted his tender application for shops on rent in Indira Priyadarshini vegetable market, Tirupati. It is the further case of the prosecution that accused No.1 through phone and accused No.3 orally requested the *de-facto* complainant to withdraw his tender application.

7. A perusal of the C.D. file clearly reveals that the petitioner is only a Registered Medical Practitioner and not a doctor by profession. A perusal of the C.D. file further reveals that the petitioner along with accused No.1 taken accused Nos.3 to 5 to Amaravathi assuring that he will manage the things in Chief

Minister Office. A perusal of the record clearly reveals that the petitioner herein hatched a plan to bring pressure on the *de-facto* complainant. The record *prima facie* reveals the role played by the petitioner in the commission of the offences.

8. Taking into consideration the nature of the offences alleged to have been committed by the petitioner, 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.

Date: 10.08.2017
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T.SUNIL CHOWDARY, J

