

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.390 OF 2017

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.147 of 2014 on the file of Station House Officer, Pebbair Police Station, Mahabubnagar District, for the offence punishable under Section 420 I.P.C, apprehending his arrest.

The brief facts of the case are that the petitioner, who is working as Constable in Andhra Pradesh Police Department, allegedly collected Rs.2,80,000/- from Mr. Baleswar Reddy and Mr. M. Shekar, promising to provide government employment. But, later, he was transferred to other place and did not provide any employment, as promised and also he did not repay the said amount to Mr. Baleswar Reddy and Mr. M. Shekar.

The contention of the learned counsel for the petitioner in the present petition is that, on receipt of complaint from Mr. Baleswar Reddy and Mr. M. Shekar, departmental proceedings were initiated. During pendency of the enquiry, the petitioner paid Rs.1,40,000/- to Mr. M. Shekar under receipt dated 13.12.2016 and thereafter, Mr. Shekar withdrawn the complaint by letter dated 27.12.2016 addressed to the Sub-Inspector of Police, Pebbair, Wanaparty. It is also contended that the petitioner also paid an amount to Mr. Baleswar Reddy, but could not produce the receipt obtained from him.

Undisputedly, the petitioner collected amount from both the persons and repaid Rs.1,40,000/-, which is evidenced by receipt dated 13.12.2016 issued by Mr. M. Shekar, but nothing was repaid to Mr. Baleswar Reddy, which was collected by the petitioner, promising to provide employment. The said submission would strengthen the case of the prosecution and mere issuing a letter for withdrawing a police complaint is not sufficient to enlarge the petitioner on bail, since the material on record *prima facie* is sufficient to conclude that the petitioner did commit offence punishable under Section 420 I.P.C. Grant of pre-arrest bail is not a matter of course and it is a matter of exception and unless under exceptional circumstances are show which exculpates the petitioner from the said offences, it is difficult to grant pre-arrest bail.

In the present case, the petitioner himself admitted about collection of Rs.2,80,000/- and in-turn paid Rs.1,40,000/-. This itself is suffice to conclude *prima facie* that the petitioner collected amount from the above two persons, promising to provide employment though he is incompetent to provide. Therefore, it is not a fit case to grant pre-arrest bail to the petitioner and consequently, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous petitions, if any, pending in this criminal petition, shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:30.01.2017
SP