

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.8834 OF 2017

ORDER:

This Criminal Petition, under Section 438 of Cr.P.C., is filed by the petitioner/Accused No.1, seeking to grant him anticipatory bail in the event of his arrest in connection with Crime No.81 of 2016, registered for the offence under Section 409 I.P.C. on the file of Station House Officer, Pedakakani Police Station, Guntur District.

Learned counsel for the petitioner/A-1 would submit that the only allegation leveled against the petitioner is that he misappropriated the funds of Sri Malleswara Swamy temple at Pedakakani to a tune of Rs.12,35,783/- while performing his official duties in the said temple as Assistant Commissioner, Endowments Department. On a report lodged by the Assistant Commissioner and Executive Officer, Vigilance and Enforcement Department, the criminal proceedings are instituted.

Learned counsel for the petitioner submits that the petitioner is an innocent person, retired as Assistant Commissioner long back and suffering from various health problems due to his age old age. Learned counsel further submits that the petitioner worked in the said temple for a short period *i.e.*, from 22.01.2017 to 31.03.2017 and there is no misappropriation as alleged by prosecution during his short period and ingredients of Section 409 I.P.C. are not attracted against him. Learned counsel also submits, without considering these aspects, the learned I Additional Sessions Judge, Guntur, dismissed the bail petition *i.e.*, CrI.M.P. No.1504 of 2016, filed by the petitioner, on 02.08.2016 and ultimately prayed to grant anticipatory bail to the petitioner/Accused No.1.

On the other hand learned Public Prosecutor appearing for the respondent-State would contend that though the petitioner worked for short period in the said temple, as per the records available he had committed misappropriation of funds to a tune of Rs.12,35,793/-, though he has power only to sanction Rs.50,000/- unauthorizedly sanctioned the alleged huge amount beyond his limitation. A detailed counter affidavit is filed by the respondent-State showing the instances and the manner of dishonestly misappropriating the temple funds by the petitioner.

It is not in dispute that the petitioner/Accused No.1 sanctioned funds to a tune of Rs.3,50,000/- and above when he has authority only to sanction up to Rs.50,000/- and no explanation is put forth by the petitioner/Accused No.1 for sanctioning the amounts beyond his permitted limit. There are number of instances where the petitioner is engaged in misappropriating the funds to a tune of Rs.12,35,793/-. Health grounds, short duration of the work by the petitioner in the said temple, and granting bail to other accused in the same crime are not the grounds to be taken into consideration while considering bail petition under Section 438 of Cr.P.C. There are grave allegations of misappropriation of temple funds supported by the record and hence it is not a fit case to grant anticipatory bail to the petitioner/Accused.

Accordingly, the Criminal Petition is dismissed.

Dr. SHAMEEM AKTHER, J

Date: 03.11.2017.
Dsh

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

60



03112017

CRIMINAL PETITION No. 8834 OF 2017

Date. 03.11.2017

DSH