

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4265 of 2017

ORDER:

This criminal petition is filed, by the petitioner-accused, under Section 438 Cr.P.C., seeking anticipatory bail in Crime No.205 of 2017 on the file of the Station House Officer, Airport Police Station, Visakhapatnam City, registered for the offences punishable under Sections 406, 420 and 506 IPC.

2. The learned counsel for the petitioner strenuously submitted that the *lis*, if any, between the parties is of civil in nature without any element of criminality. He further submitted that the allegations made in the complaint bereft of basic ingredients of Sections 406 and 420 IPC, therefore, it is a fit case to grant anticipatory bail to the petitioner. ***Per contra***, learned Additional Public Prosecutor submitted that the petitioner received an amount of Rs.64,00,000/- from one Kancherla Viswanath, and failed to repay the same, therefore, it is not a fit case to grant anticipatory bail.

3. The facts leading to filing of the present petition are briefly as follows:

One Balabhadra Sitaramayya lodged a complaint to the Station House Officer, Airport Police Station, Visakhapatnam, who in turn registered a case in Crime No.205 of 2017 under Sections 406, 420 and 506 IPC. Believing the statement of the petitioner, Kancherla Viswanath, who is presently residing at Ireland, sent an amount of Rs.45,50,000/- on 06.09.2011, Rs.14,33,400/- on 29.05.2013 and Rs.5,00,000/- on 21.07.2013 to the petitioner by

way of bank transaction. For one reason or other, the petitioner did not invest the money received from the said Kancherla Viswanath in Real estate business. It is the case of the prosecution that the petitioner herein cheated Viswanath by way of collecting huge amount on the pretext that he will invest the money in real estate business. The petitioner filed CrI.M.P.No.1670 of 2017 in Crime No.205 of 2017 on the file of I Additional Metropolitan Sessions Judge-cum-II Additional District Judge, Visakhapatnam, under Section 438 Cr.P.C. and the same was dismissed on 02.06.2017 by assigning reasons.

4. A perusal of the record reveals that the petitioner received an amount of Rs.64,00,000/- from the said Kancherla Viswanath on different dates. The petitioner neither invested the money in the real estate business nor returned the same to the Viswanath. The fact remains the petitioner retained the money of Viswanath which *prima facie* reveals the intention of the petitioner. A perusal of the record *prima facie* reveals that the role played by the petitioner.

5. Taking into consideration the nature of the offences alleged to have been committed by the petitioner, I am of the considered view it is not a fit case to grant anticipatory bail to the petitioner.

6. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

AUGUST 02, 2017
YVL

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Date:02.08.2017

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