

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2789 OF 2017

ORDER:

This Criminal Petition under Sections 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioners/accused on pre-arrest bail since they are apprehending arrest in connection with Crime No.189 of 2016 of Atmakur Police Station, Kurnool District, registered for the offence punishable under Section 420 r/w 34 of IPC.

The petitioner No.1 is working as conductor and the 2nd petitioner is his wife who are living together under one roof while the de facto complainant was working as conductor in the same Depot. At the instance of the first petitioner, he joined as member in the chit besides his children who contributed Rs.16 lakhs towards instalments. But, the petitioners failed to repay the amount after completion of chit period. These petitioners allegedly committed default in payment of Rs.16 lakhs, running unregistered chit business with the Registrar of Chits and thus, committed an offence punishable under Section 420 r/w 34 of IPC.

It is the case of the petitioners that they had no intention at the time of commencement of chit but with good intention they started chits and that they did commit no offence punishable under Section 420 r/w 34 of IPC.

Learned Public Prosecutor for the State of Andhra Pradesh contended that so far six witnesses were examined and some more witnesses are to be examined to elicit the truth and the defaulted amount from other members of the chit.

As seen from the material on record, the first petitioner being conductor, conducting chit business along with his wife, committed

default of Rs.16 lakhs to the de facto complainant and his children and running chit business without license itself is contravention of provisions of A.P. Chit Funds Act and commission of default, is a serious crime.

It is the specific case of the petitioners that they had no intention to commit default at the time of commencement of the chits, but this cannot be decided at this stage. However, the investigation is in the midway and the prosecution has to elicit the truth of the allegations made in the complaint besides collecting evidence regarding the default committed by the petitioners to various subscribers of the chits. Therefore, at this stage, it is difficult for me to grant pre-arrest bail to the petitioners.

It is contended by the petitioners that the first petitioner is an employee in A.P.S.R.T.C. and in the event of his arrest, his career will be affected. No doubt, the first petitioner is an employee. But, that is not a passport to commit such offence and to commit default. Hence, it is not a fit case to exercise discretion to grant pre-arrest bail to the petitioners by exercising power under Section 438 Cr.P.C. and thereby the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Date: 11.04.2017
ccm

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