

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.305 OF 2017

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to grant pre-arrest bail to the petitioners/ A.2 and A.3, who are apprehending arrest in connection with Crime No.344 of 2016 of Yellandu Police Station, Badradri - Kothagudem District, for the offences punishable under Sections 409 and 420 of the Indian Penal Code, 1860 (for short 'I.P.C.').

It is the case of the petitioner that he is working as Deputy General Managers in Singareni Collieries Company Ltd., in a far place from the place where the alleged offence took place, thereby question of interference with the further investigation does not arise and that apart material on record does not disclose any offence, the proceedings Rc.No.185/15-C/A-1 dated 19.09.2016 issued by the Deputy Registrar of Co-op. Societies, Kothagudem, under Section 60(1) of TSCS Act, 1964, made it clear the liability of the petitioners and others was Rs.19,37,512/- by 31.08.2016 and thereby the petitioners did commit no offence and prayed to grant pre-arrest bail.

The petitioners are the Deputy General Managers, Singareni Collories, and by virtue of their employment, they worked as Ex-Officio Secretaries and during the said period, there was an alleged misappropriation to a tune of Rs.1,15,68,481/-, thereby cheated the members of the Society at large and the Assistant Registrar, District Co-op. Office, Bhadradi, Kothagudem, addressed a letter

- 2 -

dated 22.12.2016 stating that in the inquiry, surcharge proceedings were initiated and found misappropriation of certain amount in the Society.

Now the contention of the counsel for the petitioners before this court is that the petitioners were already transferred to Peddapalli and discharging their duties as officers in Singareni Collories at Peddapalli, thereby question of their interference with the further investigation in the event enlarging them on pre-arrest bail do not arise and that apart there is no material directly pointing out the involvement of the petitioners in the crime. Therefore, prayed to enlarge the petitioners on bail.

Learned Public Prosecutor opposed the petition contending that in the event the petitioners are enlarged on bail, there is every possibility of interference with further investigation as the entire misappropriation is based on documentary evidence and unless the investigation is completed, the petitioners cannot be enlarged on bail, at this stage.

Undisputedly, the petitioners were employees, and they are Ex-Officio Secretaries of the Co.Op. Society. During their tenure, allegedly misappropriated an amount of Rs.1,15,68,481/-, but finally surcharge proceedings were limited to Rs.19,37,512/- up to 31.08.2016. Even then the material including surcharge proceedings would go to show that the petitioners are responsible for such alleged misappropriation.

To grant pre-arrest bail, the court has to record its satisfaction that there is no *prima-facie* material against the petitioners to conclude that they did commit no offence and that

- 3 -

the gravity of the offence, possibility of tampering the evidence and interference with further investigation.

Undisputedly, the petitioners are working at Peddapalli, which is far place from Yellandu, but investigation is not yet completed and the main offence allegedly committed by the petitioners is misappropriation of Rs.1,15,68,481/- which belongs to members of the Society at large. The contention of the petitioners is only payment of excess dividend to various shareholders in the Society. Whether this payment of excess dividend or otherwise is a matter of investigation to be decided by the investigating agency and at this stage it is difficult to grant pre-arrest bail when there is *prima facie* material to conclude that the petitioners committed the alleged crime and that apart even if payment is by way of excess dividend, still it amounts to, *prima facie*, misappropriation either temporary or permanent. In such a case, I am not inclined to grant pre-arrest bail to the petitioner. Hence, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY,J

30.01.2017
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