**HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**CRIMINAL PETITION No.3122 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 apprehending their arrest by the police Machavaram Police Station, Vijayawada.

2) Learned Public prosecutor representing the State of Andhra Pradesh contended that no crime is registered though complaint is lodged and the petitioners are not entitled to any pre-arrest bail.

3) When there is a tangible material in support of the reason to believe that the petitioners will be arrested in connection with non-bailable offence, pre-arrest bail can be granted and the scope of Section 438 Cr.P.C is considered by the Apex Court in ***Gurbaksh Singh Sibbia v. State of Punjab***[1] in para No.45 of the Judgment is as follows:

> "We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is preposition No.(2). We agree that a 'blanket order' of anticipatory bail should not generally be passed. This flows from the very language of the section which, as discussed above, requires the applicant to show that he has "reason to believe" that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. That is why, normally, a direction should not issue Under Section 438 (1) to the effect that the applicant shall be released on bail "whenever arrested for whichever offence whatsoever." That is what is meant by a 'blanket order' of anticipatory bail, an order which serves as a blanket to cover or protect any and every kind of allegedly unlawful activity, in fact any eventuality, likely or unlikely regarding which, no concrete information can possibly be had. The

[1] AIR 1980 SC 1632

> rationale of a direction Under Section 438 (1) is the belief of the applicant founded on reasonable grounds that he may be arrested for a non-bailable offence. It is unrealistic to expect the applicant to draw up his application with the meticulousness of a pleading hi a civil case and such is not requirement of the Section.; But specific events; and facts must be disclosed by the applicant in order to enable the court to judge of the reasonableness of his belief, the existence of which is the sine qua non of the exercise of power conferred by the Section."

4) Thus apprehension must be based on tangible material. Here the petitioners made an allegation that they are apprehending their arrest, but they did not disclose the date of lodging the complaint or any other details. In the absence of any other details, it is difficult to reasonably believe that the petitioner is likely to be arrested in any non-bailable offence based on the tangible material, which is *sine qua non* for granting pre arrest bail. Therefore, I find it is not a fit case to exercise the discretionary power under Section 438 Cr.P.C.

5) In the result, the Criminal Petition is dismissed.

6) Consequently, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

**M. SATYANARAYANA MURTHY, J**

25.04.2017
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