

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.448 OF 2017

ORDER:

This criminal petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioner/A.1 on bail, who is in jail since 12.11.2016, in RC-04(A)/2016 of CBI, ACB Hyderabad, registered for the offences punishable under Sections 120-B read with 420 and 468 of Indian Penal Code, 1860 (for short 'I.P.C.') and Sections 10 read with 8 and 9 of P.C. Act.

The main case of the prosecution, in brief, is that the petitioner and others collected huge amount from various unemployed persons promising to provide employment in different Departments. One Gopal Singh addressed a letter dated 02.02.2016 to the DIG of Police, CBI, Kendriya Sadan, Koti, Hyderabad, alleging that the petitioner approached him during 2012, promised to arrange suitable jobs for him, as the step mother of the petitioner is in South Central Railway and other Railway Zones, and demanded Rs.5 lakhs each as bribe and asked to introduce other unemployed job seekers, accordingly, he introduced his colleagues to the petitioner. Thereafter the petitioner obtained copies of testimonial and educational qualifications, filled in applications from them and assured that on the basis of the applications and certificates, he would arrange jobs, that the results would be published in the Railway Website. Initially, the petitioner took an amount of Rs.1 lakh in cash, asked to pay the remaining amount after publication of results. During

- 2 -

January 2013, the petitioner informed him that results were published in the Railway Website 'www.rrc.delhi.co.in', given a copy of final result containing the names of the complainant and others, asked them to confirm the same in the said website and demanded balance amount furnishing of his SBI A/c. No.32957889935, to deposit the amount to the credit of his account. Accordingly he verified the results in the said website, the copy of final result sheet given by the petitioner was found available in the website. The petitioner also informed that he would arrange appointment orders from the Railway, after payment of balance of amount. Accordingly, he paid an amount of Rs.5,00,000/- to the petitioner through Bank and his colleagues also paid some amounts. Similarly his step mother Smt. Chanda Devi also paid Rs.2,85,000/- to the petitioner through the said Bank for some purpose. Ultimately he came to know that those results are false and that the petitioner cheated him and others. Based on such serious allegations, police registered a case in R.C. No.04(A)/2016 for the offence referred above.

During investigation, the police collected huge material pointing out complicity of the petitioner and filed charge sheet before the court.

According to the material before the Court, the petitioner collected an amount of Rs.83.82 lakhs from the various persons, who are aspiring for employment in railways and other Departments, out of Rs.83.82 lakhs, Rs.38,45,400/- was deposited to the credit of the petitioner's account. These details would clearly show that taking advantage of the innocence of the unemployed

youth, the petitioner collected huge amount and further more he has shown fake results as if they got appointment and cheated the *de facto* complainant and others. Such person does not deserve any sympathy.

The main contention of the petitioner is that the petitioner is in judicial custody since a long time and he is entitled to bail. He placed reliance on the Judgment of Madhya Pradesh High Court in **Bharat Singh Khangar v. The State of Madhya Pradesh** decided on 18.01.2017 and the Judgment of Rajasthan High Court in **Dungar Singh v. State of Rajasthan** decided on 27.01.2017, wherein the courts held that a long time pre-trial detention is a ground to enlarge the petitioner.

In **Chenna Boyanna Krishna Yadav -vs- State of Maharashtra and another**¹ the Apex Court made it clear that when gravity of the offence alleged is severe, mere period of incarceration or the fact that the trial is not likely to be concluded in the near future either by itself or conjointly may not entitle the accused to be enlarged on bail. Nevertheless, both these factors may also be taken into consideration while deciding the question of grant of bail. The same principle is reiterated in **Rajesh Ranjan Yadav @ Pappu Yadav vs CBI through its Director**² while deciding the case it was held that it is one of the considerations in deciding whether to grant bail to an accused or not is, whether he has been in jail for a long time, the Court has also to take into consideration other facts and circumstances, and at the same time a balance has to be struck between the right to personal liberty

¹ (2007) 1 SCC 242

² (2007) 1 SCC 70

- 4 -

guaranteed under Article 21 of the constitution of India and the interest of society, as no right can be absolute.

Even if the principles laid down by the Apex Court in **Chenna Boyanna Krishna Yadav's** case and **Rajesh Ranjan Yadav @ Pappu Yadav's** case referred to supra are applied to the present facts of the case, the petitioner cheated the unemployed youth by making false promises to provide employment and furnishing copies of results. It will have its own impact on the society at large, more particularly, unemployed youth.

Therefore, long incarceration or languishing in jail and pre-trial detention by itself are not the grounds to enlarge the petitioner on bail and to strike balance between the right to personal liberty guaranteed under Article 21 of the constitution and the societal interest at large, I find no ground to enlarge the petitioner on bail, at this stage.

In the result, the criminal petition is dismissed.

M.SATYANARAYANA MURTHY,J

01.02.2017
BV