

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.846 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 petitioner/ A.1 apprehending his arrest in connection with Cr.No.457 of 2016 of Nizamabad Police Station, Nizamabad, registered for the offence punishable under Section 392 of Indian Penal Code, 1860 (for short 'I.P.C.') and Section 25 of the Indian Arms Act.

The case of the prosecution, in brief, is that one Perelli Krishna made a phone call to the *de facto* complainant and informed that cash exchange offer came to him and that they would do the said business on 20% commission basis. On 07.12.2016 at 6.30 p.m. the *de facto* complainant and the said Perelli Krishna visited Madhavanagar, Ranasait garage, along with cash of Rs.14,00,000/-, where the petitioner and another were present. Thereafter, the petitioner and another accused forcibly snatched away the cash of Rs.14,00,000/- from the *de facto* complainant while threatening them with gun and talwar, and beat them with hands. On the next day i.e. 08.12.2016 at 10.30 a.m. the complaint was lodged by the *de facto* complainant making serious allegations against the petitioner and another. On the strength of the same, the police registered a crime and issued F.I.R.

The only contention before this court is that the petitioner is innocent and due to civil disputes regarding purchase of plots around the plot of the *de facto* complainant, and wanted to purchase the plot

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belonging to the petitioner, thereby the *de facto* complainant allegedly foisted a false case against the petitioner.

Learned Public Prosecutor for the State of Telangana would contend that during investigation, the investigation officer seized an amount of Rs.11,48,000/- through one Jaspal sing and Rs.2,52,000/- yet to be recovered from the possession of the petitioner and thereby, there is, *prima facie*, material against the petitioner to conclude that he committed the offence and prayed to dismiss the criminal petition.

As seen from the material on record, the petitioner is one of the accused in the above crime and snatched away the huge amount to Rs.14,00,000/-, as per the allegations made in the charge sheet, threatening the *de facto* complainant at the gun point, but the contention of the counsel for the petitioner is that due to civil disputes, a false case is foisted, at this stage, it is difficult to accept that there were personal disputes with regard to landed property in and around the land of the petitioner. More over, as per case diary, the investigating officer seized an amount of Rs.11,48,000/- through one Jaspal singh and has to recover the balance of Rs.2,52,000/- and thus investigation is not completed as on today.

The petition is filed for grant of pre arrest bail, which is purely discretionary in nature and grant of pre-arrest bail is not a matter of course, it is a matter of exception. Unless the petitioner shows that there are exceptional circumstances entitling him to claim pre-arrest bail, the court cannot grant pre-arrest bail. In **Guru Baksh Singh**

Sibia Vs. State of Punjab¹ the Apex Court laid down certain guidelines for grant of pre-arrest bail and the main ground to grant pre-arrest bail is that the court has to satisfy that there is no *prima facie* material to conclude that the petitioner did commit no offence, but here according to the investigating agency, they recovered an amount of Rs.11,48,000/- out of Rs.14,00,000/- from A.1 through Jaspal Singh and Rs.2,52,000/- yet to be recovered. Therefore, this fact is suffice to conclude that the petitioner committed such offence, *prima facie*, punishable under Section 392 I.P.C. Though major part of the investigation is completed, still there is a reasonable apprehension that there is possibility of interference with further investigation. However, the material on record would suffice to conclude that the petitioner committed the offence, *prima facie*. In such case this court cannot exercise its discretion 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

15.02.2017
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¹ AIR 1980 SC 1632