

CRIMINAL PETITION No. 3263 of 2017

ORDER:

This Criminal Petition under Section 438 of the Code of Criminal Procedure is filed by Boddu Siva and Boddu Devi who are not shown as accused in Crime No.17 of 2017 of Devarapalli Police Station, Devarapalli, Visakhapatnam District, apprehending arrest in connection with the above crime, registered for the offences punishable under Sections 409-A, 448, 307, 509 r/w 34 of IPC.

Basing on the complaint lodged by one Boddu Ramalaxmi, a crime was registered against several accused for the offences referred supra. But, these petitioners are not arrayed as accused in the above crime, according to the counsel for the petitioners, but they are apprehending arrest in the above crime.

It is settled law that there must be tangible evidence in support of reasonable belief that the petitioners are likely to be arrested in connection with non-bailable offence, otherwise, the Court cannot exercise its discretion under Section 438 Cr.P.C. to grant pre-arrest bail to the petitioners. As contended by the petitioners that they are not arrayed as accused in the above crime and there is no tangible material in support of their apprehension that they are likely to be arrested in connection with the above crime.

If 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 as follows:

¹ AIR 1980 SC 1632

“We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is proposition 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 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 in 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.”

As discussed above, I find no tangible material in support of apprehension of the petitioners and consequently, the petition is liable to be dismissed.

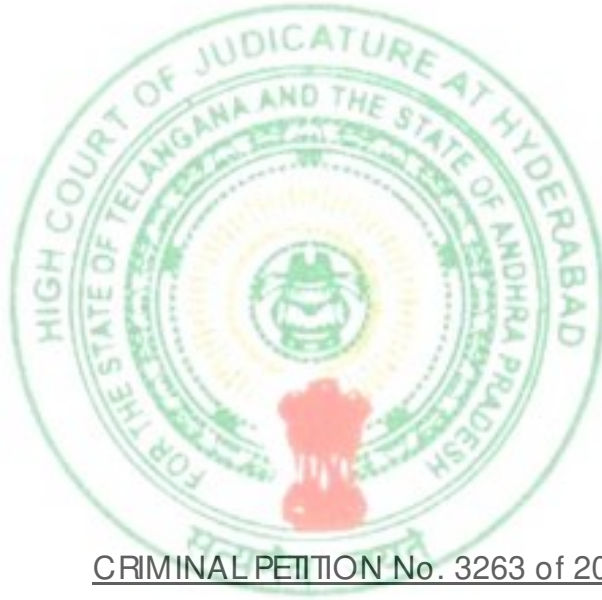
In the result, this Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 27.04.2017
ccm

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



CRIMINAL PETITION No. 3263 of 2017

Date:27.04.2017

ccm