

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.10695 of 2017

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused No.1, for grant of anticipatory bail in the event of his arrest in Crime No.125 of 2017 on the file of the Chinna Chowk U/G Police Station, YSR Kadapa District, registered for the offences punishable under Sections 406, 408, 418, 420, 120-B read with Section 34 of I.P.C.

2. Heard the learned counsel for the petitioner/accused No.1, learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioner/accused No.1 would submit he has not violated any terms and conditions of the Memorandum of Understanding between him and the de-facto complainant. The petitioner/accused No.1 has not created any bogus documents. The allegation that the petitioner/accused No.1 has not obtained the hypothecation agreement from the purchasers of the vehicles is false. There is also arbitration clause in the Memorandum of Understanding, in case of any dispute with regard to recovery of loans lent by the de-facto complainant. There is also 60 days time to submit the registration certificate and ultimately prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor opposed the grant of bail to the petitioner/accused No.1.

5. As per the material placed on record, the petitioner/accused No.1 has disbursed 139 loans for the purchase of vehicles, under hypothecation scheme. Out of that, 37 loans were repaid. The remaining 102 loans are active. RSP has not been paid. An amount of Rs.91,76,483/- is overdue. On physical verification of the loan documents and also with the RTO concerned, there is no hypothecation of those vehicles as per the terms and conditions of business between the parties to the litigation. Further, there is also record to show that the petitioner/accused No.1 is alleged to have fabricated the documents and made the de-facto complainant to finance the purchase of subject vehicles. When there are disputes with regard to profit sharing, terms and conditions of the agreement entered between the parties, the parties are entitled to invoke the arbitration clause. There is element of cheating and dishonestly inducing the de-facto complainant to sanction loans by the petitioner/accused No.1 and others. The matter requires investigation. Release of the petitioner/accused No.1 on bail under Section 438 of Cr.P.C. would hinder the investigation. There is possibility of winning over the witnesses and causing disappearance of the material documents. The Criminal Petition is devoid of merit and is liable to be dismissed.

6. Hence, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

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Dr. SHAMEEM AKTHER, J

21<sup>st</sup> November, 2017  
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