

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12025 OF 2017

ORDER:

This petition is filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioner-A1 for the offences alleged under Sections 324, 307, 452, 427 and 506 r/w 34 IPC.

2. Heard learned counsel for the petitioner-A1, learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioner-A1 would submit that the petitioner-A1 is an innocent person and falsely implicated in this case. Some of the accused were granted bail under Section 439 Cr.P.C. The bail application of the petitioner-A1 was not considered by that Court. The dispute is only a monetary dispute. When there is a dishonour of cheque, it is for the de facto complainant to file a complaint to punish the concerned person for the offence under Section 138 of the Negotiable Instruments Act. In stead of resorting to recovery procedure, this case is foisted against the petitioner and ultimately, prayed to allow the application.

4. On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioner-A1 contending that there are eye witnesses to the alleged offence. Neighbours also supported the case of the prosecution. The petitioner-A1 along with the other accused beat the Managing Director and also threatened the other staff members and ultimately, prayed to dismiss the application.

5. The point for determination is whether the petitioner-A1 is entitled for bail under Section 438 Cr.P.C.?

6. There is record to show that the petitioner-A1 worked as Cashier in Sai Towers Hotel, Puttaparthi for 8 years. He has stolen an amount of Rs.30,00,000/- from the cash counter of the hotel. When questioned, the petitioner-A1 agreed to pay a sum of Rs.16,00,000/- in instalments, but he did not pay the said amount. Thereafter on demand, the petitioner-A1 gave a cheque for Rs.4,50,000/-. When the said cheque was presented to the bank, the same was returned for want of sufficient money in the account of the petitioner-A1. Thereafter, when the management demanded the petitioner-A1 to pay the money, on 13.10.2017, the petitioner-A1 along with his friends trespassed into the room of the de facto complainant (Managing Director), attacked him with iron rods and caused injuries and pushed him down and threatened the other staff members. There are specific overt-acts against the petitioner-A1. There is also record to show that the computer, monitor and other property in the room was damaged by the petitioner-A1 and his friends. The de facto complainant suffered bleeding injuries. His teeth were shaken. In the course of investigation, the staff members of the hotel as well as the neighbours have supported the case of the prosecution.

7. Under these circumstances, it cannot be held that no such incident took place and the petitioner-A1 is falsely implicated in this case. There are specific overt-acts and the allegations against the petitioner-A1, which are grave in nature. The matter requires thorough

investigation. Therefore, it is not a fit case to grant bail to the petitioner-A1 under Section 438 Cr.P.C.

8. Accordingly, the Criminal Petition is dismissed.

DR.SHAMEEM AKTHER, J

DATED: 22-12-2017

Hsd

