

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION NO.3182 OF 2018**

**ORDER:**

This criminal petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail, apprehending their arrest in Crime No.198 of 2018 on the file of Jawaharnagar Police Station, Rachakonda District, for the offences punishable under Sections 420 & 406 I.P.C, in connection with the above crime.

One Smt. B. Baghyamma lodged a report on 01.03.2018 alleging that she purchased open house plots bearing H.Nos.) 20-197/96/846, 2) 20-197/96/847 3) 20-197/96/848, admeasuring 180 sq.yds situated at Jawaharnagar from Turukonda Ramullu, r/o Gabbilalpet for total consideration of Rs.2,80,000/- with the help of one Nagabhushanam, Karate Raju, Jaila Sailu and later she came to know that the above open plots are government lands. When the complainant asked to return her amount, the accused paid only Rs.1,00,000/- and did not pay balance and dragged the matter.

The main contention of the petitioners before this Court is that the petitioners are no way concerned with the transaction and the petitioners are apprehending their arrest in connection with the above crime and produced several newspaper items published to contend that the property was assigned to various occupants and that the defacto complainant is not entitled to claim any right in the property allegedly purchased by her. Therefore, absolutely there is no material to conclude *prima facie* that these petitioners

have committed any offence, muchless, offences punishable under Sections 420 & 406 I.P.C and prayed to grant pre-arrest bail to these petitioners.

Learned Public Prosecutor for the State of Telangana opposed the petition on the ground that there is material to prove that the first petitioner executed a document evidencing sale of the property which is notarized and thereafter, they came to know that the land belongs to the government. The other petitioners are persons who helped the first petitioner in fraudulent sale of the property. when there is *prima facie* material against these petitioners, the petitioners cannot be enlarged on pre-arrest bail and prayed for dismissal of the petition.

The basis for claim of the defacto complainant is the unregistered agreement dated 21.04.2009. Sale of the property for Rs.2,80,000/- is not disputed, but the role of the petitioners 2 to 4 is that, they helped the first petitioner in fraudulent sale of the property to the defacto complainant, though they were aware of the fact that the land belongs to the government. Therefore, sale of property belonging to the government by the first petitioner/A-1 at the instance of the other petitioners would constitute offence *prima facie* punishable under Section 420 I.P.C, as the defacto complainant was made to part with huge amount on false representation made by the petitioners herein.

At this stage, it is difficult to find out the evidence, since the investigation is at fetus stage and therefore, insisting upon the prosecution to produce material to connect these petitioners with the offences mentioned supra is not proper. Therefore, taking into

consideration the facts and circumstances of the case and stage of investigation, I find that it is not an fit case to exercise power under Section 438 Cr.P.C, since grant of pre-arrest bail is an exception and it cannot be granted as a matter of routine, unless the petitioners are shown exceptional circumstances which entitles them to claim such pre-arrest bail, the same cannot be granted. But, in the present facts of the case, no material is produced to conclude *prima facie* that the petitioners did commit no offence and therefore, I find that it is not a fit case to grant pre-arrest bail to the petitioners at this stage.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.



**JUSTICE M. SATYANARAYANA MURTHY**

Date:19.03.2018

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