

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION Nos. 3829 AND 3953 OF 2018

COMMON ORDER:

These petitions are filed, under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), for grant of anticipatory bail to the petitioners in Crime No. 120 of 2018 of Pulivendula Police Station, Y.S.R. Kadapa District, registered for the offences punishable under Sections 147, 148, 188, 353 and 120-B read with Section 149 of IPC and Section 3 of PDPP Act, 1984.

2. At the hearing, learned counsel for the petitioners submitted that this Court by common order dated 03-04-2018 in Criminal Petition Nos. 2907 of 2018 and batch arising out of the above crime granted pre-arrest bail to the other accused. Learned Public Prosecutor (A.P.), however, submitted that petitioner No. 5 in Criminal Petition No. 3829 of 2018 is shown as accused No. 11 and petitioner Nos. 18, 22, 34, 36, 45, 46, 50, 51, 55 to 59, 89, 90, 163, 177, 187 and 252 are shown as accused Nos. 64, 52, 45, 54, 84, 82, 194, 195, 76, 74, 72, 73, 80, 46, 47, 56, 52, 84 and 66 respectively in the above crime and the other petitioners are not arrayed as accused as on date and therefore the petitioners who are not shown as accused are not entitled to claim pre-arrest bail.

3. As seen from the material on record, some of the petitioners are not shown as accused in the above crime as on date. When there is a reasonable

apprehension for their arrest, the petitioners can claim pre-arrest bail if it is based on any material on record. A larger Bench of the Apex Court in ***Shri Gurbaksh Singh Sibbia and others Vs. State of Punjab and Sarbajit Singh and another Vs. State of Punjab***¹ held as follows:

"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."

Thus, from the above observation of the Apex Court, if there is a tangible material in support of the reasonable apprehension, the Court can grant

¹ AIR 1980 SC 1632

anticipatory bail exercising power under Section 438 (1) Cr.P.C. Turning to the case on hand, except the petitioners who are shown as accused as has been submitted by learned Public Prosecutor, the other petitioners are not shown as accused as on date and there is no tangible material in support of the reasonable apprehension which the other petitioners pleaded about their arrest in connection with the above crime. Hence, the petitioners, who are not shown as accused in the above crime, are not entitled to claim pre-arrest bail as a blanket order.

4. In the light of the above, the Station House Officer, Pulivendula Police Station, Y.S.R. Kadapa District, is directed to release the petitioners, who are shown as accused Nos. 11, 64, 52, 45, 54, 84, 82, 194, 195, 76, 74, 72, 73, 80, 46, 47, 56, 52, 84 and 66, on bail in the event of their arrest in Crime No. 120 of 2018 on condition of their executing each a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to his satisfaction while dismissing the claim of the other petitioners who are not shown as accused in the above crime. After such release, the petitioners shall stay at Kadapa Town and shall not leave the same without prior permission of the Magistrate, Pulivendula, and report before the Station House Officer on every alternative day between 5 p.m. and 10 p.m. for a period of two months or till filing charge sheet whichever is earlier. Further, on such release, the petitioners shall abide by the conditions mentioned under Section 438(2) Cr.P.C. as under:

- (i) The petitioners shall make themselves available for interrogation by a police officer as and when required.
- (ii) The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) The petitioners shall not leave India without the previous permission of the Court.

4. The criminal petitions are accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed in consequence.

M.SATYANARAYANA MURTHY, J.

Date: 12-04-2018.

JSK

