

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 4126 OF 2018

ORDER:

This petitions is filed, under Section 438 of the Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner 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 Public Prosecutor (A.P.) has opposed the petition on the ground that the petitioner is not arrayed as accused as on date except making an allegation that 34 persons, who are named in FIR, along with 200 others committed the above offences.

3. As seen from the material on record, the petitioner is not shown as accused in the above crime as on date. When there is a reasonable apprehension for their arrest, the petitioner can claim pre-arrest bail if it is based on any tangible 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 preposition 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

¹ AIR 1980 SC 1632

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 anticipatory bail exercising power under Section 438 (1) Cr.P.C. Turning to the case on hand, even according to the allegations made in the complaint, accused Nos. 1 to 34, who are named in FIR, along with 200 others, committed the offences. Except that, there is no tangible material in support of the reasonable apprehension which the petitioner pleaded about his arrest in connection with the above crime. Hence, the petitioner, who is not shown as accused in the above crime, is not entitled to claim pre-arrest bail as a blanket order.

4. In the result, the criminal petition is dismissed. Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

JUSTICE M.SATYANARAYANA MURTHY

Date: 16-04-2018.

SP

