

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.4726 OF 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent-State.

This Criminal Petition, under Section 438 of Cr.P.C., is filed by the petitioner/accused seeking anticipatory bail in Crime No.108 of 2018 of Shadnagar Police Station, Cyberabad District, registered for the offences under Sections 420 and 409 of I.P.C.

The main contentions of learned counsel for the petitioner are that even from the very report allegations, dated 24.02.2018, given by the District Veterinary and Animal Husbandry Officer, to the S.H.O. Shadnagar P.S., nowhere attracts any breach of trust for nothing disclosing any entrustment to attract the offence under section 409 I.P.C., and there is no any element of cheating to attract Section 420 of I.P.C.

It is also the contention that the petitioner submitted his joining report on 23.02.2018 and the report was given on the next day of his joining *i.e.*, on 24.02.2018. It is clear from the report submitted by the Director, Veterinary and Animal Husbandry Department, Hyderabad to the Secretary to Government, Animal Husbandry *vide* letter in ROC No.2471, dated 05.03.2018; Para 2 therein refers about the petitioner originally applied for 3 days casual leave from 27.08.2015 to 29.08.2015; later, applied earned leave from 01.09.2015 to 10.09.2015 and later did not report to duty even after expiry of the earned leave by 10.09.2015 and found in unauthorized absence and absconded from his duties with effect from 27.08.2015 and he was informed that while he was on duty, he has drawn an amount of Rs.7,57,954/- and Rs.1,66,000/- from the Office of

the Assistant Director, Animal Husbandry, Shadnagar towards the sale proceeds of feed, seed, chaff cutter *etc.*, and not remitted the same to Government and therefore misappropriated the Government amount totally Rs.9,23,954/- and thereby necessary disciplinary action has been initiated under the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 and articles of charges have been framed for the above lapses against him and solicits instructions whether he may be permitted to be admitted to duty or not.

In fact, as pointed by the learned Public Prosecutor, if the said very report in seeking instructions from the superiors as to permit him to admit to duty or not itself discloses that he was in unauthorized absence after expiry of the earned leave from 01.09.2015 to 10.09.2015 not joined and his joining report referred is only on 23.02.2018 that clearly shows for more than 2 years 8 months he was in abscondence and so far as the medical record filed concerned it is prior to his casual leave and earned leave referred *supra* as on one day he was admitted in Care hospitals on 14.11.2012 and discharged after insertion of stent and on another day on 15.05.2013 he was admitted in Sri Sri Holistic Hospitals on the history of drug allergy and he was discharged in a stable condition, from the summary of the treatment even mentions about the stent to LAD. Thus, none of the hospital records are pertaining to the period after his applying for casual leave and earned leave and subsequent abscondence to give any credence.

In fact, there is embezzlement of the amount of about nine (9) lakhs is clear from the record, thereby it is not a fit case to grant any anticipatory bail to him. Hence, the Petition is dismissed without prejudice to any of his defence to seek regular bail.

In consequence, miscellaneous petitions, if any, pending in this
Petition shall stand dismissed.

Dr.B.SIVA SANKARA RAO, J

Date: 06.06.2018.
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