

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.4814 OF 2018

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C by Afiya Sultana @ Sonu, who is not arrayed as accused in Crime No.245 of 2016 of Bhongir Town Police Station, apprehending her arrest in connection with the above crime, registered for the offences punishable under Sections 447, 427, 387 and 506 IPC on 20.08.2016 and prayed to enlarge her on bail.

The *de facto* complainant – Pulikanti Naresh, General Secretary of Sri Lakshmi Narsimha Swamy Nagar Plot Owners Welfare Association, Bommaipally, Railway Station, Bhongir lodged report on 20.08.2016 alleging that initially pattedars Kacham Shankaraiah, Kacham Shivaiah, Kaham Prakash entered into an agreement of sale and executed three registered GPA in favour of Pakir Bal Reddy vide document Nos. 41 of 1993, 106 of 1993 and 165 of 1993 in respect of their property total measuring Ac.154.28 gts and to develop the same into housing lay out in Survey Nos.722, 723, 724, 726 to 733. Pakir Bal Reddy had developed the entire land into a residential lay out and divided into 1756 plots and sold to the individual purchasers and delivered peaceful and vacant possession of their respective plots.

While the matter stood thus, in the year 2006-2007, local anti social elements overwhelmed by greed developed evil eye over their property/plots, the local gundas started threatening them on daily basis with the help of Nayeem and his henchmen along with Shaik Shakeel, Penta Narsimha came to the site and called and forced them to meet them at site. Though they shown their registered sale

deed, they did not heed to the reply of the petitioner and tried to dispossess from the land. Thus, the persons arrayed in the above crime committed the offence.

It is alleged in the petition that the petitioner was called to the police station regularly though she was aged 10 years at the time of incident and question of commission of offence does not arise and prayed to enlarge the petitioner on bail.

The main ground for seeking pre-arrest bail is that the petitioner is being called to the police station every day and she was aged 10 years on the date of incident. The date of incident was 20.08.2016 at about zero hours and she is now aged 22 years and most probably she might be 20 years by the date of incident. Moreover, the petitioner is apprehending her arrest in the above crime on account of calling to the police station by the police concerned, but no details including dates of her calling to the police station disclosed in the petition, except making bald allegation.

The Court can grant pre-arrest bail, when there is reasonable apprehension for arrest of a person based on material. The Apex Court highlighted the purpose of granting pre-arrest bail in **Gurbaksh Singh Sibbia and Others v. State Of Punjab**¹ 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 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

¹ 1980 AIR 1632

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. "

In view of the law declared by the Apex Court, the Court can grant pre-arrest bail if the reasonable apprehension is supported by any tangible material. But here, in this case, no material is placed to grant pre-arrest bail and this Court cannot pass such blanket order of pre-arrest bail in favour of the petitioner to cover every offence. Applying the above decision of the Apex Court in **Gurbaksh Singh's** case referred supra, I am not inclined to grant pre-arrest bail as the petitioner is not supported by any tangible material. However, it is left open to the petitioner to renew her request at appropriate stage in the event she find any tangible material in support of her apprehension of arrest in connection with the above crime.

With the above observation, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

01.05.2018

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