

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.6399 of 2018

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed by the petitioner/accused, for grant of anticipatory bail in the event of his arrest in Crime No.1238 of 2017 of Madhapur (Gunttala) Police Station, Cyberabad District, registered for the offences punishable under Sections 406 and 420 IPC.

2. Heard the learned counsel for the petitioner/accused, the learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. Learned counsel for the petitioner/accused would submit that the allegations made against the petitioner are false; that though the *de facto* complainant stated that he entrusted an amount of Rs.23,86,940/- towards TDS payment of the employees working in his company to the petitioner, it is impermissible as per Sections 269 T and 269 SS of the Income Tax Act, since the TDS amount is not paid through cash; that the petitioner was wrongly confined in captive for a period of four days; that there is an inordinate delay of nine years in lodging the complaint; that the petitioner is not responsible for misappropriation of any money and ultimately prayed to allow the bail application.

4. On the other hand, the learned Additional Public Prosecutor opposed the bail application and contended that the petitioner is responsible for misappropriation of an amount of Rs.23,86,940/-; that the petitioner siphoned cash for three years and produced duplicate bank challans; that the said challans were identified by the Chartered Accountant of the *de facto* complainant company in the

year 2012 itself and when Chartered Accountant questioned the petitioner, the petitioner admitted the mistake; that though the said issue was known to the Chartered Accountant, the same was not brought to the notice the *de facto* complainant and that the Chartered Accountant died in the year 2013; that the *de facto* complainant came to know the said fact when Income Tax Department has issued notice to him and ultimately prayed to dismiss the bail application.

5. As per the material placed before this Court, the offences alleged against the petitioner are punishable under Sections 406 and 420 IPC. The *de facto* complainant is the Managing Director of Needa Software Solutions Private Limited, which was incorporated in the year 2009. The petitioner worked as Assistant under one Yamarthi Rama Sharma, who was the Chartered Accountant of the *de facto* complainant company, during the years 2009-2013. The allegation is that an amount of Rs.23,86,940/- was entrusted to the petitioner towards TDS amount of employees working in his company and the same was misappropriated by the petitioner. The petitioner alleged to have produced fake challans. The allegations levelled against the petitioner are grave, at this stage, it cannot be said that the petitioner is falsely implicated in this case. Therefore, there are no grounds to grant bail to the petitioner.

6. The Criminal Petition is, accordingly, dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

10th July, 2018

YVL

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Date:10.07.2018

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