

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.6895 of 2018

ORDER :

The petitioner is A1 among five accused in Crime No.228 of 2017 on the file of Saifabad Police Station, Hyderabad. The crime is registered on 07.06.2017 for the offences punishable under Sections 420, 506 r/w 34 IPC.

2. The petitioner seeking anticipatory bail having went unsuccessful for such relief before the learned I Additional Metropolitan Sessions Judge, Hyderabad in CrI.M.P.No.1789 of 2018. Leave about the earlier in CrI.M.P.No.1509 of 2018 dated 30.05.2018. The *de facto* complainant was impleaded as respondent No.2 to the anticipatory bail application and even notice sent, there is no proof received and filed. The track record filed is not the clear proof of service, even the learned counsel for petitioner says the same is not even returned from the notice ordered and sent as per the order dated 25.07.2018. From the track record, it is drawn the presumption under Section 27 of the General Clauses Act of due service to the address mentioned in the F.I.R. of *de facto* complainant.

3. Coming to the merits of the application for anticipatory bail sought, the *de facto* complainant is a proprietary concern by name M/s. Gajanan Trading Company at Hubli dealing in coal, and two persons from the city informed the *de facto* complainant that one Mr. Riaz Ahmed Gulfarosh, who supply coal from foreign countries, and

was taken the complainant to Mangalore Port to introduce said Riaz Ahmed Gulfarosh and consequent to that introduced the complainant to one P.V.K.Reddy-A1 who in turn introduced to one Penugonda Varadarajulu Siva Kumar and Mr. Prabhakar Reddy Prasutla, the so-called Directors of M/s. Coser Coal Mines & Minerals Pvt. Ltd. by saying they got coal mines in Indonesia to supply coal therefrom to the complainant, and they have taken the complainant to clear his doubt to Indonesia and for confirmation of their assurance the complainant visited along with his son. There A1-P.V.K. Reddy and Riaz Ahmed Gulfarosh shown some mines and assured to supply coal therefrom, for which the complainant transferred an amount of Rs.82,62,525/- through RTGS to their account with Union Bank vide cheque Nos.78058, 78059, 78060 and 78063 of Saraswat Bank, Hubli and the contract agreement was entered on 09.09.2016 at Khairtabad in the name of M/s. Coser Coal C & F Agency instead of M/s. Coser Coal Mines & Minerals Pvt. Ltd. saying all are their business concern and the complainant gave post-dated cheque for Rs.2,40,69,000/- as security deposit. However, they cheated having committed the breach of their promise having lured the amount by non-supply of coal.

4. The contentions in the bail application are that the petitioner is innocent and falsely implicated and the complainant when approached him to purchase the coal and placed the Purchase Order dated 12.08.2016 with M/s. Gajanan Trading Company, Hubli for Indonesia

5300 Kcal/Kg coal on loading basis to Mangalore Port and entered the contract agreement with PT Golden Sparrow Mines and Minerals vide Contract No.PTGSMM/CCCFA/COAL/CIF/2016-17/117 dated 13.08.2016 and after few months the *de facto* complainant contacted the petitioner and shown his willingness to cancel the agreement due to financial constraint and price fluctuations, for which he has to suffer damages even as indicated by the petitioner-A1 and by suppressing the facts the report is given and crime is registered. The petitioner went unsuccessful twice for anticipatory bail as referred supra.

5. Even the perusal of the material on record including from the bail application averments, undisputedly the petitioner is the person in between for the coal from his own say and it is not a case of either coal supplied or the amount refunded.

6. Having regard to the above propensity of crime, the petitioner-A1 is not entitled to the concession of bail. Accordingly, this Criminal Petition is dismissed.

Needless to say for none of the offences are punishable above seven years, the petitioner-A1 is entitled to the protection of Section 41-A Cr.P.C. for the police to follow.

Dr. B. SIVA SANKARA RAO, J

13.08.2018
MVA