

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6940 OF 2018

ORDER:

The petitioner is A.1 among 3 accused of crime No.108 of 2018, Gajuwaka Police Station, Visakhapatnam, registered for the offences punishable under Section 420 r/w 34 IPC from the report of the defacto complainant that he was lured and part with huge amount under the guise of construction of new apartment and to sell 1000 square feet plot in S.No.117/8 of Tunglam Village, Gajuwaka, from which he parted with Rs.4,00,000/- and there is nothing by even commencement of construction.

The contention of the learned counsel for the petitioner that it is a civil dispute if at all under contract for sale and not outcome under criminal liability much less an offence of cheating and they are innocent and the petitioner-A.1 is falsely implicated and petitioner went unsuccessful in seeking anticipatory bail in CrI.M.P.No.987 of 2018 before the Court of Session by dismissal order dated 25.05.2018.

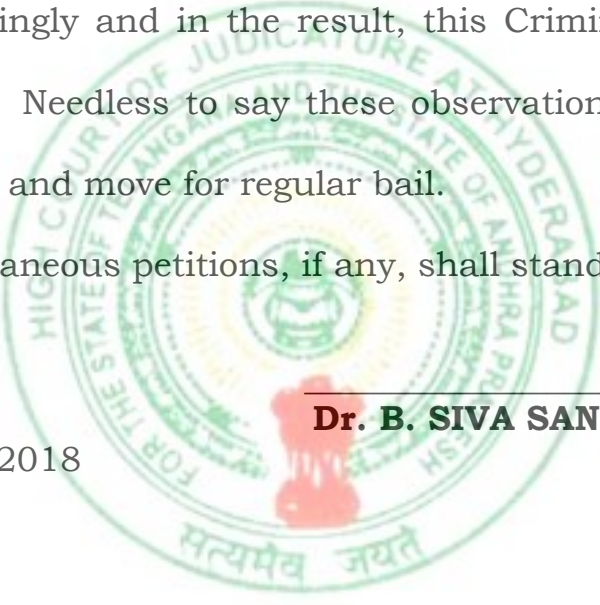
The learned Public Prosecutor opposed the bail application saying the petitioner cheated by lured about Rs.4,00,000/- from the defacto complainant and the investigation is in progress and he is not entitled to the concession of the anticipatory bail.

Heard learned counsel for the petitioner and learned Public Prosecutor representing the State and perused the FIR, bail application averments and the case diary.

Though the petitioner is not entitled to the concession of anticipatory bail, it is made clear that as none of the offences are punishable above seven years, the Police in the event of arrest strictly follow Section 41-A Cr.P.C. and the guidelines of the Apex Court as laid down in **Arnesh Kumar v. State of Bihar**¹.

Accordingly and in the result, this Criminal Petition is disposed of. Needless to say these observations will not bar to surrender and move for regular bail.

Miscellaneous petitions, if any, shall stand closed.



Dr. B. SIVA SANKARA RAO, J

Date: 25.07.2018
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¹ (2014 (2) ALT (CrI.) 457 SC)