

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10663 OF 2018

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, for grant of bail in Crime No.179 of 2018 of Khanapur (H) Police Station, Khammam District, registered for the offences punishable under Sections 406 and 409 of I.P.C.

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

3. The learned counsel for the petitioner would submit that stocks are readily available. Nothing was sold without the permission of the owner of the stocks. All false allegations are made against the petitioner. There is no misappropriation as alleged and ultimately, prayed to allow the petition.

4. The learned Additional Public Prosecutor opposed the grant of bail to the petitioner/accused and contended that the petitioner was entrusted distribution of LED bulbs, tube lights, fans, etc. He did not account for value of the stocks and sold some of the stocks, and shifted the remaining stocks to a different place without permission of the *de facto* complainant-owner of the stocks and ultimately, cheated him to a tune of Rs.2.80 crores. There is substantial material to show the shifting and selling the stocks by the petitioner/accused and ultimately, prayed to dismiss the petition.

5. As per the material placed on record, the *de facto* complainant had entrusted the distribution of LED bulbs, tube lights, fans, etc., to the petitioner/accused. It is alleged that the petitioner/accused had sold most of the stocks entrusted to him and

did not account for. Even the remaining stocks were shifted to a different place without the permission and authority of the *de facto* complainant-owner of the stocks contravening the terms and conditions entered into between them. Thus, the *de facto* complainant is put to huge loss and also being cheated by the petitioner/accused to the tune of Rs.2.80 crores. There are specific and grave allegations of selling some of the stocks and shifting the remaining stocks to a different place. Under these circumstances, *prima facie*, it cannot be said that the ingredients of Sections 406 and 409 IPC are not made out and the petitioner is an innocent person. The allegations are grave. There is alleged misappropriation of stock to a tune of Rs.2.80 crores. The release of petitioner/accused on bail under Section 438 Cr.P.C. would hinder the investigation. There is possibility of winning over the witnesses and manipulating the records. Therefore, it is not a fit case to allow the petition. The petition is devoid of merit and is liable to be dismissed.

7. In the result, the Criminal Petition is dismissed.

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

DR. SHAMEEM AKTHER, J

Date: 26.10.2018
ssp