THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10738 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 No.7, for grant of anticipatory bail in the event of his arrest in connection with Crime No.169 of 2018 of Jami Police Station, Vizianagaram District, registered for the offences punishable under Sections 120-B, 420 and 406 read with 34 IPC.

2. Heard learned counsel for the petitioner/accused No.7, the learned Public Prosecutor appearing for the respondent-State and perused the record.

3. Learned counsel for the petitioner/accused No.7 would submit that the petitioner/accused No.7 is not responsible for the money transaction in between accused No.1 and the *de facto* complainant; that being relative of accused No.1, he is falsely implicated in this case; that at no point of time, no money was transferred into his account by the *de facto* complainant; that a false case is filed against him for the aforesaid offences and ultimately prayed to allow the application.

4. Learned Additional Public Prosecutor opposed the grant of bail to the petitioner/accused No.7.

5. Now, the point for determination is whether the petitioner/accused No.7 can be granted bail under Section 438 Cr.P.C.

6. As per the allegations in the First Information Report, dated 16.09.2018, lodged by one Rambabu Vaka, this petitioner/accused No.7 along with other accused cheated and induced the *de facto* complainant to deliver property and part with huge amounts. The *de facto* complainant was doing Real estate business and in that process, he came in acquaintance with accused No.1, he transferred huge amount of Rs.13,39,34,878/- between 22.10.2010 to 12.11.2013 to various accounts of accused Nos.1 to 6 and this petitioner/accused No.7 by way of cheques, account transfers and cash to enable them to purchase immovable property. However, no property was purchased and transferred in the name of the *de facto* complainant and thereby cheated the *de facto* complainant, all the accused persons having conspired together by making fraudulent representations from time to time. Having vexed with their activities, the *de facto* complainant lodged a report against them.

7. As per the submissions made and record produced by the Additional Public Prosecutor, an amount of Rs.5,00,000/- was transferred into bank account (Axis Bank) of the petitioner/accused No.7, on 21.05.2011 and another amount of Rs.5,00,000/- was also transferred into his account opened at State Bank of India and altogether an amount of Rs.10,00,000/- was transferred in his account. Admittedly, there are no business transactions in between the petitioner/accused No.7 and the *de facto* complainant, however, huge amount was transferred into the account of the petitioner/accused No.7 from the account of the *de facto* complainant. Under these circumstances, it cannot be said that the petitioner/accused No.7 has no connection with the affairs

in between the *de facto* complainant and accused No.1. The allegations are grave and specific. It cannot be held that the petitioner/accused No.7 is falsely implicated in this case. The investigation warrants custodial interrogation. It is not a fit case to allow the bail application under Section 438 Cr.P.C.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this petition shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

NOVEMBER 20, 2018
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CRIMINAL PETITION No.10738 OF 2018

Date: 20.11.2018

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