

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11140 OF 2018

ORDER:

This Criminal Petition is filed by the petitioner-A.1 under Section 438 of Cr.P.C. to grant him anticipatory bail in Crime No.164 of 2018 of Central Crime Station, Hyderabad, registered for the offences punishable under Sections 420, 406, 409, 464, 468, 471, 120B I.P.C.

2. Heard both sides and perused the material available on record.

3. The learned counsel for the petitioner-A.1 would submit that on a false report given by the Deputy Executive Engineer working in Telangana Housing Board, the subject crime is registered and under investigation; the petitioner as per the procedure directed the registration certificate of sale for a sale consideration of Rs.19,25,550/- in favour of Surender Singh and others; the petitioner-A.1 has nothing to do with the registration of sale deed by the purchasers on the very same day on 18.10.2016 for a sale consideration of Rs.3,05,94,500/-; at that point of time, the petitioner-A.1 was on deputation in the Housing Board Department; the sale certificate was issued in terms of the G.O.Ms. No.46 dated 02.07.2005; as the original allottee of the subject land was no more, the sale certificate was issued in favour of the children of the deceased; the petitioner-A.1 having gone through the notes put up by the subordinates, directed the sale certificate to be registered; the petitioner-A.1 has no malafides; the record with regard to the registration of sale certificates are available in the office records; the petitioner-A.1 is falsely implicated in this case; the Vice Chairman and Housing Commissioner of the Housing Board filed counter affidavit in the Petition for Special Leave to Appeal (C) Nos.28174-28175 of 2014 and in paragraph No.10 of the

same, he has clearly stated that the execution of the registered sale deeds may have been done after the period of scheme closed but only in respect of the lease holders who availed the scheme within the period of validity of the scheme; the said mention in the counter affidavit reflects that there was no irregularity in registering the sale certificate even after closure of the same; and ultimately, prayed to allow the bail application.

4. On the other hand, learned Additional Public Prosecutor appearing for the respondent-State opposed the grant of bail to the petitioner-A.1 under Section 438 Cr.P.C.

5. As per the material placed on record, a report dated 20.09.2018 by the Nodal Officer and Deputy Executive Engineer, incharge of Land Section, Telangana Housing Board, was addressed to the Deputy Commissioner of Police, Central Crime Station, Hyderabad, bringing to the notice the fraudulent execution and registration certificate of sale by the petitioner-A.1 and others working in Telangana Housing Board and also it is alleged that the sale consideration for the registration of the said certificate was shown as Rs.19,25,550/-, whereas on the same day, the same property admeasuring 1000 square yards was sold under a registered sale deed dated 17.10.2016 for a sale consideration of Rs.3,05,94,500/-. The registration of sale certificate at the instance of petitioner-A.1 and others was in violation of G.O.Ms.No.46 dated 02.07.2005, wherein the lessees possessing leasehold rights were allowed to convert those rights into freehold lease rights. The duration was fixed in that G.O. as only one year. Within one year from the date of issue of the G.O., the persons who obtained the property of the Housing Board on lease have to comply the required formalities and pay the value fixed by the Board and get the sale certificate registered. After the lapse of the G.O., without there being any authority, in violation of the rules and

regulations, the petitioner-A.1 along with other accused had executed and registered a certificate of sale in favour of son of the deceased lessee for a sale consideration of Rs.19,25,550/-. No legal heir certificate was filed. Further, the sale consideration issued is not accounted. As per the record, the petitioner-A.1 is the main person who is responsible for the registration of the subject sale certificate. In the counter affidavit, the Vice Chairman did not concede that the subject sale certificate was registered as per the regulations. He did not concede the validity of the said sale certificate. He has only brought to the notice of the Supreme Court how 1000 square yards of subject land was dealt with by the employees of the Housing Board. Being the officer on deputation to the Housing Board and placed in responsible position, the petitioner-A.1 is not supposed to execute and got registered the subject sale certificate along with other officials of the Housing Board. The manner in which 1000 square yards of subject property belonging to the Housing Board is alienated without there being any government order and in **fragrant** violation of G.O.Ms. No.46 dated 02.07.2005 by the petitioner-A.1, he cannot plead innocent. The petitioner-A.1 played active role and executed the sale certificate and got it registered. In view these circumstances, there is a *prima facie* case against the petitioner-A.1 for the offences alleged under Sections 420, 406, 409, 464, 468, 471, 120B I.P.C. and it is not a fit case to consider his application under Section 438 Cr.P.C. The bail application is devoid of merits and is liable to be dismissed.

6. In the result, this Criminal Petition is dismissed. As a sequel, miscellaneous petitions, if any, pending in this Criminal Petition shall also stand dismissed.

Dr. SHAMEEM AKTHER, J

Date: 06- 11-2018

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