

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12537 OF 2018

ORDER:

This Criminal Petition is filed by the petitioner-accused under Section 439 of Cr.P.C. to grant him bail in Crime No.23 of 2018 of Karimnagar ACB Police Station, Karimnagar District, registered for the offence punishable under Section 7(a) of the Prevention of Corruption (Amendment) Act, 2018.

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

3. The learned counsel for the petitioner-accused would contend that the petitioner-accused is innocent person and falsely implicated in this case; the investigation commenced in this case before registering the first information report; there is no reason to demand Rs.10,000/- from the *de facto* complainant, as the dispute with regard to demand of bribe was ordered to be closed much before registration of the subject crime in this case; on the date of alleged offence, no criminal case was pending before the petitioner-accused against the *de facto* complainant, to demand gratification or bribe; most of the witnesses are examined; most part of the investigation is completed; the petitioner-accused is in judicial custody from 01.11.2018; and ultimately, prayed to grant bail to the petitioner-accused.

4. On the other hand, learned Additional Public Prosecutor appearing for the respondent-State opposed the grant of bail to the petitioner-accused under Section 439 Cr.P.C.

5. The material placed on record reveals that the *de facto* complainant purchased a tractor bearing No.AP-15-TB-4037 for Rs.60,000/- in an online auction from Mahindra Finance, Jagtial. He

furnished the details of his identity to Mahindra Finance to purchase the tractor. Thereafter, he put the said tractor for sale. As nobody came forward to purchase the tractor, he sold the parts of the tractor in the month of September, 2018 to a tractor dealer in Vijayawada. The *de facto* complainant was summoned to the police station by the petitioner-accused. So, on 03.10.2018, the *de facto* complainant went to Dharmapuri Police Station and the petitioner-accused, who was the Sub Inspector of Police of Dharmapuri Police Station and the Circle Inspector of Police demanded him to produce the tractor and threatened him that they would book a case. The petitioner-accused also informed the *de facto* complainant that the said tractor was involved in stealing sand and the petitioner-accused threatened the *de facto* complainant with dire consequences. The *de facto* complainant sought ten days time and left the police station. On 19.10.2018, the petitioner-accused made a call to the mobile number of the *de facto* complainant from his mobile and demanded him to approach him. On 21.10.2018, the *de facto* complainant went to Dharmapuri Police Station and met the petitioner-accused and informed that the vehicle was not traced. Then the petitioner-accused demanded the *de facto* complainant to give Rs.50,000/- as bribe. On that the *de facto* complainant expressed his inability to give the said amount and informed that he purchased the tractor legally. Ultimately, an amount of Rs.20,000/- was fixed payable to the petitioner-accused by the *de facto* complainant. As the *de facto* complainant is not in a position to pay money, he approached the ACB authorities. Thereafter, an enquiry was made with regard to the conduct of the petitioner-accused. Ultimately, the amount payable to the petitioner-accused was fixed at Rs.10,000/-. Thereafter, a trap was laid on 31.10.2018. As instructed, the *de facto* complainant went to Dharmapuri Police Station and made an offer of Rs.10,000/- to the petitioner-accused. Spy gadgets were also used in the

trap. The handing over and taking over of the amount were recorded with the help of a secret camera. On receiving signal from the *de facto* complainant, the raid party entered the office room of the petitioner-accused in Dharmapuri Police Station and recovered the tainted currency notes for a sum of Rs.10,000/- from the petitioner-accused under a cover of panchanama. When the wash out of the right hand fingers was collected in a glass tumblers, the result yielded positive, turning into pink colour.

6. In the course of investigation, the petitioner-accused has also confessed the commission of offence that he collected cash of Rs.10,000/- using his official function. The entire episode of receiving the tainted amount by the petitioner-accused was videographed. Whether the investigation preceded the registration of F.I.R. or whether the F.I.R. is vitiated, is a matter of trial. The learned Special Judge for trial of SPE and ACB Cases at Karimnagar was pleased to dismiss the regular bail application of the petitioner-accused, vide orders dated 16.11.2018 in CrI.M.P.No.1001 of 2018, wherein an observation is made that there is a *prima facie* case against the petitioner-accused for the offences alleged. The petitioner-accused is a police personnel and an influential person. There is apprehension that the petitioner-accused would threaten the witnesses and influence them using different tactics. In the event of release of the petitioner-accused on bail, there is every possibility of the petitioner-accused threatening and abetting the *de facto* complainant and the prosecution witnesses from deposing fairly and fearlessly before the trial Court and it jeopardizes their interest also. When there is video recording of demand and acceptance of illegal gratification and when the tainted amount was allegedly recovered from the possession of the petitioner-accused and when the sodium carbonate solution is found on

the fingers of the right hand of the petitioner-accused and as the result yielded positive, turning into pink colour, it can be safely concluded that there is *prima facie* case against the petitioner-accused. Therefore, the petitioner-accused is not entitled to bail under Section 439 Cr.P.C.

7. 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: 12- 12-2018

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