THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11972 OF 2017

ORDER:

This Criminal Petition is filed under Section 438 Cr.P.C. seeking to grant anticipatory bail to the petitioner-accused in Crime No.125 of 2017 of Chinna Chowk U/G police station, Kadapa district registered for the offences punishable under Sections 406, 408, 418, 420, 120B read with 34 IPC.

2. Heard the learned counsel for the petitioner-accused, the learned Additional Public Prosecutor and perused the material available on record.

3. The learned counsel for the petitioner would submit that the petitioner-accused is innocent person and falsely implicated in this case; that basing on a report dated 01.06.2017 lodged by M/s. Fortune Integrated Assets Finance Limited, FIR dated 01.06.2017 is issued in crime No.125 of 2017 of Chinna Chowk U/G police station, Kadapa district; that the name of the petitioner is not found in the FIR; that when police visited his house, on enquiry, he came to know that he is wanted in the above crime; that the petitioner-accused has no relation with A.1's firm i.e. M/s. Sree Dharani Enterprises, Kadapa and M/s.Sri Bharathi Auto Finance; that as per the FIR, all allegations are made against A.1, who is Managing Partner of M/s. Sree Dharani Enterprises and Partner of M/s. Sri Bharati Auto Finance; that the petitioner-accused has nothing to do with the subject loan transactions and ultimately, he prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State would submit that the petitioner is Partner of M/s. Sree Dharani Enterprises and he, along with A.1 and other employees of

the firm, filed bogus documents and took the subject loans to the tune of Rs.3,80,15,000/- and committed default in payment of instalments to the tune of Rs.1,57,91,876/-; that the petitioner-accused along with the other accused is equally responsible for committing the offences alleged, and ultimately, he prayed to dismiss the application.

5. In view of the contentions put forth by both sides, the point for determination is whether the petitioner-accused can be granted bail under Section 438 Cr.P.C.?

6. The material placed on record reveals that A.1 is Managing Partner of M/s. Sree Dharani Enterprises and partner of M/s. Sri Bharati Auto Finance. A.1's firm is revenue sharing partner of M/s. Fortune Integrated Assets Finance Limited, which is a non-banking finance company. The said company is lending money for auto finance. As A.1's firm is revenue sharing partner of M/s. Fortune Integrated Assets Finance Limited, on the recommendations of A.1's firm, 345 loans to the tune of Rs.3,80,15,000/- were sanctioned but A.1's firm failed to repay the instalments as agreed to the tune of Rs.1,57,91,876/-. On enquiry conducted by the defacto complainant, it came to light that A.1's firm submitted dubious loan applications in collusion with its employees.

7. The contention advanced on behalf of the petitioner-accused is that the petitioner-accused is a Partner of M/s. Sree Dharani Enterprises, a registered firm with registration No.103 of 2014, but he retired from the partnership of the said firm on 09.10.2015, and one T.Naresh joined in his place on that day and he submitted relevant documents before the Registrar of Firms in Form No.V and that the petitioner-accused has no connection with the subject loan transactions. As per the material placed on

record, the subject loan transactions relate to the year 2013 and 2014. The petitioner said to have retired from the A.1's partnership firm on 09.10.2015. As per the records placed, Form No.V was submitted to the Registrar of Firms, Kadapa on 29.05.2017. These documents would go to show that the petitioner-accused was the partner of M/s. Sree Dharani Enterprises, Kadapa by the date of subject loan transactions.

8. In the course of investigation, it came to light that the petitioner-accused along with A.1 and other employees indulged in creating bogus documents and obtained loans from M/s. Fortune Integrated Assets Finance Limited, which is a non-banking company, to the tune of Rs.3,80,15,000/- and an amount of Rs.1,57,91,876/- is outstanding. On verification made on behalf of M/s. Fortune Integrated Assets Finance Limited, it is found that most of the documents submitted were forged and fabricated documents, and altogether, the petitioner-accused and other accused in this case made unlawful gain to the tune of Rs.2.56 crores. When the petitioner-accused was partner of the M/s. Sree Dharani Enterprises, it cannot be said that he has no indulgence and he is not responsible for obtaining of the subject loans without filing proper documents. There is also record to show that some of the loan accounts have become Non-performing Assets, and some of the loan applications are dubious loan applications submitted by the revenue sharing partner. Under these circumstances, it cannot be said that M/s. Fortune Integrated Assets Finance Limited was not cheated to the tune of Rs.2.56 crores and the petitioner-accused is innocent person and falsely implicated in this case. Submission of his application showing that he retired from the partnership, is much later to the date of submission of alleged dubious documents and obtaining the subject loans. Bail application of A.1 was dismissed by this Court vide order dated 21.11.2017 in Criminal Petition No.10695 of

2017 by assigning reasons. Therefore, this petition is devoid of merits and is liable to be dismissed.

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

Dr. SHAMEEM AKTHER, J

Date: .1.2018
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THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Crl.P. No. 11972 OF 2017

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