

**THE HON'BLE DR.JUSTICE SHAMEEM AKTHER**

**CRIMINAL PETITION No.544 OF 2019**

**ORDER:**

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A.1, for grant of anticipatory bail in Crime No.96 of 2018 of Tappa Chabutra Police Station, Hyderabad, registered for the offences punishable under Sections 406 and 420 read with 34 of IPC.

2. Heard the learned counsel for the petitioner/A.1, the learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. Learned counsel for the petitioner/A.1 would submit that the petitioner is falsely implicated in this case. The petitioner had filed a complaint against the *de facto* complainant for the offence under Section 138 of the Negotiable Instruments Act. As a counter blast to the same, this case is foisted against the petitioner. All the allegations made against the petitioner are false and ultimately prayed to allow the petition.

4. Learned Additional Public Prosecutor representing the respondent/State opposed the grant of bail to the petitioner/A.1 and contended that the petitioner had received Rs.9.00 lakhs by way of cheque. The copies of the bank accounts were collected. Those reflect the encashment of cheque of Rs.9.00 lakhs given by the *de facto* complainant and ultimately prayed to dismiss the petition.

5. In view of the submissions made by both sides, the point that arises for determination is, whether the petitioner/A.1 is entitled to bail under Section 438 of Cr.P.C.?

6. A copy of the complaint filed by the petitioner herein under Section 200 Cr.P.C., for the offence punishable under Section

138 of the Negotiable Instruments Act, based on which C.C.No.457 of 2018 was registered, is placed before this Court. In the said complaint, it is stated that the accused therein (*de facto* complainant herein) took a hand loan of Rs.14,50,000/- from the petitioner herein and the accused therein issued six cheques for the said amount, the details of which are as under:

|    | Cheque No. | Amount        |
|----|------------|---------------|
| 1. | 213731     | Rs.4,50,000/- |
| 2. | 535338     | Rs.3,00,000/- |
| 3. | 733928     | Rs.1,00,000/- |
| 4. | 213734     | Rs.3,50,000/- |
| 5. | 244392     | Rs.1,50,000/- |
| 6. | 535339     | Rs.1,00,000/- |

In the said six cheques, there is no mention with regard to the issuance of cheque of Rs.9,00,000/-. As per the record placed before this Court, a cheque for an amount of Rs.9,00,000/- was given to the petitioner/A.1 and it was honoured.

7. The case of the *de facto* complainant herein is that the petitioner/A.1 introduced a person by name, Md. Awaiz, for sale of a flat. The *de facto* complainant agreed to purchase the said flat for Rs.19,00,000/- and gave net cash of Rs.1,00,000/- and cheques for Rs.9,00,000/- to the petitioner/A.1 to enter into agreement of sale. Later, he came to know that the vendor has no title to the property. Thus, the petitioner/A.1 has deceived the *de facto* complainant. There is investigation to substantiate the allegations. The gravity of offence is very high. Under these circumstances, the petitioner/A.1 is not entitled for bail under Section 438 Cr.P.C.

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

**DR. SHAMEEM AKTHER, J**

Date: 13.02.2019

ssp

