

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.5005 of 2019

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 is filed by the petitioner, who is A.2, for grant of anticipatory bail in the event of his arrest in Crime No.52 of 2019 of SHO, Rajoli Police Station, Jogulamba Gadwal District, registered for the offences punishable under Section 379 of IPC and Section 21(1) of MMDAR Act, 1957 and Section 3 of PDPP Act.

The case of the prosecution is that the petitioner along with other accused is transporting the sand illegally without having any licence or permission from the Government.

Heard learned counsel for the petitioner/A.2 and the learned Additional Public Prosecutor appearing for the respondent State. Perused the material on record.

Learned counsel for the petitioner contends that the petitioner is innocent of the offences alleged and he has been falsely implicated in the above crime. It is contended that the petitioner never committed any offence much less the offence under Section 379 of IPC as alleged by the police. It is also contended that the contents of the complaint and the Remand Report do not disclose any involvement of the petitioner in the above crime. It is contended that LW.1-complainant is not an eye witness to the incident and the complaint has been lodged by him only on information given by some unknown persons.

It is also contended that the petitioner is the sole bread winner in the family and he is ready to abide by any conditions imposed by this Court, including assisting the investigating agency for his release on anticipatory bail in the event of his arrest in the above crime.

On the other hand, the learned Additional Public Prosecutor vehemently opposed the relief sought in the above petition.

As seen from the contents of the complaint, there are specific allegations that the petitioner along with other accused has dumped and stolen away the sand at Thummilla village, near Thungabhadra river without having any licence or permission from the Government. In view of the specific allegations levelled against the petitioner, I am not inclined to grant anticipatory bail to the petitioner/A.2. However, if the petitioner/A.2 surrenders before the Court below concerned within ten days from today and moves an application for regular bail, after giving prior notice to the Public Prosecutor concerned, the said application may be considered in accordance with law.

With the above observations, this Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

26.08.2019.
Msr

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Msr