

THE HON'BLE SRI JUSTICE A.RAJASEKHER REDDY

Crl.P.No.2743 OF 2019,

Crl.P.No.2747 OF 2019

AND

Crl.P.No.2748 OF 2019

COMMON ORDER:

The petitioner in all these criminal petitions is one and the same.
Hence, the criminal petitions are disposed of by this common order.

Heard learned counsel for the petitioner and learned Public Prosecutor.

Criminal Petition No.2743 of 2019 is filed under Section 438 of the Criminal Procedure Code for grant of anticipatory bail in Crime No.430 of 2019 of Banjara Hills Police Station, registered for the offences punishable under Sections 467, 420, 409, 406 and 120 B IPC.

Criminal Petition No.2747 of 2019 is filed under Section 438 Cr.P.C. for grant of anticipatory bail in Crime No.84 of 2019 of Banjara Hills Police Station, registered for the offences punishable under Sections 406, 420, 467, 469, 471, 120 B IPC and 66 and 72 of Information and Technology Act, 2000-2008.

Criminal Petition No.2748 of 2019 is filed under Section 438 Cr.P.C. for grant of anticipatory bail in Crime No.87 of 2019 of Banjara Hills Police Station, registered for the offences punishable under Sections 420, 468, 471, 120 B IPC and 66-C and 66-D of Information and Technology Act, 2000-2008.

Learned counsel for the petitioner submits that false cases were registered against the petitioner when the issue is pending before the National Company Law Tribunal II, Hyderabad vide C.P.No.148/241/HDB of 2018. He submits that if any fabricated or forged documents are filed before NCLT, it is for the Tribunal to initiate action. He further submits that in respect of the documents filed, though petitioner also filed counter

complaint, no crime is registered and that the complaint against the petitioner has no basis.

Learned counsel also submits that notices under Section 41-A Cr.P.C. were issued to the petitioner before filing the present criminal petitions and after filing the present petitions. Learned counsel relying on a judgment of the Supreme Court in **Surender Kaushik and others v State of Uttar Pradesh and others**¹ submits that on same incident registration of multiple FIRs is not permissible. Learned counsel further submits that the respondent tried to arrest the petitioner on 10th and 12th of May, 2019 and then issued notice under Section 41-A Cr.P.C. on 13.05.2019. Learned counsel also submits that the petitioner is entitled for interim anticipatory bail when the main application is heard as there is a threat of arrest, which is imminent and as such he prays for anticipatory bail. Apart from that he submits that there is no basis for initiation of criminal proceedings against the petitioner and at the instance of rival group police initiated criminal proceedings, which is mala fide action.

On the other hand, learned Public Prosecutor appearing for the State submits that notices under Section 41-A Cr.P.C. were issued and that there is no basis for the petitioner to say that there is threat of arrest. He submits that serious allegations are made against the petitioner. As such, the applications of the petitioner cannot be entertained. He further submits that investigation is in progress. Learned Public Prosecutor also submits that if the petitioner replies to the notice under Section 41-A Cr.P.C., the respondents will act in accordance with law. He vehemently opposed the petitions.

¹ (2013) 5 SCC 148

Section 41-A Cr.P.C. reads as under:

41A. Notice of appearance before police officer. –

(1) The police officer shall, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.”

It is to be noted that a notice under Section 41-A Cr.P.C. would be issued when the Police Officer concerned is of the opinion that the arrest of a person is not required under Section 41(1) Cr.P.C. It is only if the addressee of such notice fails to comply with the terms thereof that the Police Officer may take recourse to Sub Section 4 of Section 41-A and effect an arrest. In those circumstances, it can be said that the apprehension of the petitioner that the police may arrest him at any time is not well founded. To maintain anticipatory bail petition, the applicant must show that he has ‘reason to believe’ that he may be arrested in a non-bailable offence. The said issue was considered by the learned single Judge

of this Court in Criminal Petition No.1953 of 2019 relying on judgments of the Apex Court in **Vaman Narain Ghiya v State of Rajasthan**² and **Shri Gurbaksh Singh Sibbia v State of Punjab**³ and came to the conclusion that the apprehension voiced by the petitioners is without any demonstrable basis or foundation as the police already issued notice under Section 41-A Cr.P.C. Though learned counsel for petitioner relied on other judgments and argued on merits, but in view of above facts and circumstances, the said judgments have no application to facts of the case. As far as registration of multiple FIRs on same incident is concerned, this Court is only dealing with anticipatory bail, but not quashing of FIRs.

In view of the above, this Court is of the opinion that the criminal petitions are liable to be dismissed and are, accordingly, dismissed.

Interlocutory applications pending, if any, shall stand closed.

A. RAJASEKHER REDDY, J

Date: 22.05.2019
kvrn

² (2009) 2 SCC 281

³ AIR 1980 SC 1632