

THE HONOURABLE SMT. JUSTICE G.ANUPAMA CHAKRAVARTHY

CRIMINAL PETITION No.4362 OF 2022

ORDER:

This Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, 1973 seeking bail to the petitioner/Accused No.3 in the event of his arrest in Crime No.189 of 2022 on the file of Panjagutta Police Station, Hyderabad, for the offences punishable under Sections 423, 465, 406, 420, 120-B IPC and Section 156 (3) Cr.P.C.

2. The brief facts of the prosecution case are that the *de facto* complainant-Bank lodged a complaint before the Inspector of Police, Panjagutta Police Station, alleging that the petitioner/Accused No.3 has deposited title deeds with the Bank and made an equitable mortgage of the residential building H.No.4-129/3, admeasuring 460 square yards in Sy.No.740, situated at Goutham Nagar, Patancheru Mandal, Sanga Reddy District, with ground + four floors consisting of total 16 flats. It is further alleged in the complaint that in spite of creating equitable mortgage in favour of the Bank, the petitioner/Accused No.3 has sold the properties to third parties under registered sale deeds and all the accused have conspired and obtained loans fraudulently by forging the title deeds and

sold out the mortgaged property and therefore, the de-facto complainant has requested to take necessary action against the accused.

3. Learned counsel for the petitioner submitted that the petitioner has only mortgaged ground + two floors in the Bank and the rest of the property belongs to him and the same was sold to the third parties and as such, the question of attracting the offence of cheating or any other alleged offences does not arise and therefore, prayed to grant anticipatory bail to the petitioner.

4. On the other hand, learned Assistant Public Prosecutor opposed to grant anticipatory bail contending that in view of mortgage of the property, the petitioner ought not to have sold the properties to third parties and he prayed to dismiss the anticipatory bail application. He further submits that notice under Section 41-A Cr.P.C., is not served on the petitioner as he is not available.

5. Heard the learned counsel for petitioner/Accused No.3 and the learned Assistant Public Prosecutor for respondent-State. Perused the record.

6. The demand notice of the *de facto* complainant-Bank

dated 20.04.2021 clearly reveals in Paragraph No.2 of the description of properties that the building consisting of Ground +2 floors with total plinth area of 12000 square feet was mortgaged with the Bank, which is standing in the name of petitioner/accused No.3. As it is contended by the learned Assistant Public Prosecutor that Notice under Section 41-A Cr.P.C. is not served on the petitioner as he is not available, the petitioner is directed to appear before the Station House Officer, Panjagutta Police Station on 23.05.2022, and to comply with the Notice under Section 41-A Cr.P.C., and after compliance of said notice, the Police shall release him forthwith. The petitioner is also directed to appear before the Station House Officer, Panjagutta Police Station, whenever his presence is necessary for investigation and he shall co-operate with the investigation.

7. Accordingly, the Criminal Petition is disposed of.

8. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.

SMT JUSTICE G.ANUPAMA CHAKRAVARTHY

Date: 12.05.2022

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