

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.5724 OF 2022****ORDER:**

This Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, 1973 seeking bail to the petitioner who is arrayed as Accused No.2 in the event of his arrest in Crime No.103 of 2022 on the file of Station House Officer, Central Crime Police Station, Hyderabad registered for the offences punishable under Sections 406 and 420 read with Section 34 of Indian Penal Code and Section 5 of TSPDFE Act and Section 76 of Chit Fund Act.

2. Heard learned counsel for petitioner/Accused No.2 and learned Assistant Public Prosecutor for respondent-State. Perused the record.

3. The case of the prosecution is that a complaint was filed alleging that he and his wife are members of a chit which was being run by M/s.Sree Nagarjuna Enterprises. The *de facto* complainant's wife joined as a chit member in the chit group of Rs.25,00,000/- and also introduced four others as chit subscribers. The *de facto* complainant paid 19 months which totaling to Rs.21,33,000/- and the *de facto* complainant entitled to get Rs.24,25,000/-. However,

the amounts collected by V.Pawan Kumar who is Accused No.1, were not returned to the *de facto* complainant and also to other chit members.

4. In the said circumstances, the police registered the case under Sections 406 and 420 read with Section 34 of IPC and also under Section 76 of Chit Fund Act which makes failure to pay the price amount would amount to an offence under Section 76 of the Chit Fund Act which is punishable upto two years. The police have also invoked the offence under Section 5 of the TSPDFEA Act also on the basis of the allegations made in the complaint.

5. Learned counsel for the petitioner would submit that in the entire complaint there is no mention of this petitioner. However, the entire transactions pertaining to the chits were dealt with one V.Pawan Kumar who is arrayed as Accused No.1 in the present case. Further assuming that certain amounts which were collected as chit installments were not returned, it amounts to an offence under Section 76 of the Chit Fund Act and not come under Section 5 of the TSPDFEA Act.

6. Learned Assistant Public Prosecutor submits that the members who joined as chit subscribers were also asked to deposit the price amount of the chits and for that reason Section 5 of the TSPDFE Act is attracted.

7. As seen from the complaint, the transactions were dealt by one V.Pawan Kumar and there are no allegations as far as this petitioner is concerned regarding the running of the business. In the said circumstances, the petitioner/Accused No.2 can be granted the relief of Anticipatory Bail.

8. Accordingly, the Criminal Petition is allowed and the petitioner/Accused No.2 shall be enlarged on bail in the event of his arrest subject to the following conditions:

i) The petitioner/Accused No.2 is directed to surrender before the Station House Officer, Central Crime Police Station, Hyderabad within one week from today, and on such surrender, he shall be enlarged on bail on his executing a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) with two sureties to the like sum each, to its satisfaction.

ii) The petitioner/Accused No.2 shall appear before the concerned Station House Officer on every Monday between 10.30 AM and 01.00 PM for a period of two (02) months.

iii) The petitioner/Accused No.2 shall abide by the other conditions stipulated in Section 438(2) Cr.P.C.

9. As a sequel thereto, miscellaneous applications, if any pending, shall stand closed.

Date: 08.07.2022
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K.SURENDER, J