

HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

CRIMINAL PETITION No.4676 of 2023

ORDER:

Heard Sri B.Subash, learned counsel for the petitioners, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking pre-arrest bail in favour of the petitioners, who are arrayed as accused Nos.1 to 4 in Crime No.60 of 2023 of Thalakondapally Police Station, Cyberabad, the present Criminal Petition is filed under Section 438 Cr.P.C.

3. The case of the prosecution is that on 17.04.2023, at about 17:00 hrs, the complainant, viz., Sri S.Venkateshwar Rao along with P.Ravinder Rao, Kotha Venkateshwar Rao and K.Venkat are joint owners and constituted a partnership firm in the name and style of M/s.Balaji Real Estates. They jointly purchased the land admeasuring 5 acres 25 guntas in survey Nos.86/AA & 86/A, through a registered sale deed and later they formed a layout over the land admeasuring 4 acres 39 guntas. Subsequently, they said to have found unknown person by name Sri Godasu Anjaiah, the petitioner herein/A1, trying to trespass into the layout by illegal acts

and to grab the land. On the said allegations, the police have registered the case under Sections 420, 417, 406 r/w 34 IPC.

4. The learned counsel for the petitioners submitted that subsequent to the purchase of the property, there was an agreement between the partners viz., S.Venkateshwar Rao, P.Ravinder Rao, Kotha Venkateshwar Rao and K.Venkat. They filed an application before the Mandal Revenue Officer, Thalakondapally, stating that they have withdrawn from the partnership firm and reported no objection for effecting mutation in favour of P.Ravinder Rao/A2. Learned counsel further submitted that subsequently, P.Ravinder Rao/A2 disbursed the property in view of the hike in the prices of the land. The Inspector of Police referred the petitioners herein to compromise with the de-facto complainant.

5. Learned counsel for the petitioners while placing reliance on judgment in the case of ***Dataram Singh vs. State of Uttar Pradesh and another*** in Criminal Appeal No.227 of 2018 and another judgment in the case of ***Arnesh Kumar vs. State of Bihar and another*** in Criminal Appeal No.1277 of 2014, submitted that the police are not supposed to use the power of registering the case without there being a

complaint disclosed under the provisions of IPC. He has also submitted that petitioners are respectable citizens and if they are arrested, it would be irreparable loss to them.

6. Learned Additional Public Prosecutor opposed the request stating that the matter is under investigation.

7. As per the material documents filed by the petitioners herein, it appears that there was an understanding between petitioner No.2 and other partners, who are *de-facto* complainants in the F.I.R. Subsequently, they lodged a complaint with the police and it is at the stage of deciding on merits. But *prima-facie*, it shows that a complaint has been registered purely on the civil litigation wherein, there is no necessity for the Investigating Officer to send the petitioners herein to judicial custody and on that ground itself, the petitioners can be granted anticipatory bail.

8. Having considered the nature of the case and taking into consideration the submissions of the learned counsel, this Court is of the view that the request of the petitioners can be honoured, however conditionally.

9. Resultantly, this Criminal Petition is allowed with the following conditions:-

(i) The petitioners/accused Nos.1 to 4 are directed to surrender before the Court concerned, on or before 25.05.2023. On such surrender, they shall be enlarged on bail on their executing a personal bond for Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties for the like sum each to the satisfaction of the S.H.O concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.

(ii) In case, the petitioners/accused Nos.1 to 4 hold a passport, they are directed to surrender the same before the Court concerned.

(iii) The petitioners/accused Nos.1 to 4 shall not involve in any unlawful activity.

(iv) The petitioners/accused Nos.1 to 4 shall afford all assistance for proper investigation of the case.

(v) The petitioners/accused Nos.1 to 4 shall not tamper with the evidence in any manner.

(vi) The petitioners/accused Nos.1 to 4 shall not leave the headquarters without prior permission of the Court concerned.

18.05.2023
PNS/VSU

SAMBASIVA RAO NAIDU,J.

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