

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

CRIMINAL PETITION No.4677 of 2023

ORDER:

This Criminal Petition is filed by the petitioners/Accused Nos.1 to 4 under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in Crime No.900 of 2022 on the file of Mailardevpally Police Station.

2. The above said crime was registered on the basis of a private complaint filed by the *de facto* complainant before the II Additional Junior Civil Judge-cum-XII Addl. Metropolitan Magistrate at Rajendranagar on 09.11.2022, with a specific allegation that there was a physical attack on him by petitioner Nos.1 and 2 on 12.10.2022 and also with an allegation that the de facto complainant sent bunch of batteries worth Rs.65,00,000/- to the petitioners/accused who said to have sold the same in the market, but, did not pay the amount. The allegations with regard to the failure of the petitioners in payment of the above said amount squarely covers a civil transaction for which the de facto complainant can file appropriate suit.

3. Learned counsel for the petitioners submits that the complaint lodged before the II Additional Junior Civil Judge is silent as to why he did not file any complaint soon after the offences alleged incident.

It is further submitted that the offences alleged against the petitioners are not punishable with any imprisonment for life and the maximum punishment that can be imposed is less than seven years.

4. The learned Additional Public Prosecutor opposed the petition and informed the Court that the Investigating Officer has already issued 41A Cr.P.C notice.

5. Learned counsel for the petitioners states that in spite of the petitioners submitting a report, still, there was an attempt by the investigating officer to effect the arrest of the petitioners and if it is allowed, it will definitely effect the personal reputation of the petitioners.

6. From the above, it is very clear that there is no *prima facie* material to believe that there is a physical attack on the *de facto* complainant on 12.10.2022. The counsel for the petitioners filed copies of medical report to show that petitioner/accused No.1 was hospitalised for food poison on 11.10.2022.

7. In view of the above stated circumstances, the petitioners request for anticipatory bail can be considered. Accordingly, the 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 and on such surrender they shall be released on bail on their executing personal bond of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties for a like-sum each, to its satisfaction.

- (ii) The petitioners/accused Nos.1 to 4 shall cooperate with the investigating officer and make themselves available during the investigation.
- (iii) The petitioners/accused Nos.1 to 4 shall not try to influence the witnesses nor tamper with the evidence.
- (iv) The petitioners/accused Nos.1 to 4 are directed to surrender their passports, if they possess, before the concerned Court under due acknowledgment.
- (v) The petitioners/accused Nos.1 to 4 shall abide by the other conditions stipulated in Section 438(2) Cr.P.C.

Pending Miscellaneous Applications, if any, shall stand closed.

SAMBASIVA RAO NAIDU, J

Date: 18-May-2023
Smk/gvl

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