

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.2765 OF 2024

ORDER:

This Criminal Petition is filed under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”) seeking anticipatory bail to the petitioner-Accused No.5 in Crime No.528 of 2023 of Shamshabad Police Station, Cyberabad, registered for the offences punishable under Sections 467, 468, 471, 417, 419 and 420 read with 34 of IPC.

2. The case of the prosecution in brief was that on 11.10.2023 at 20.30 hours, the de-facto complainant lodged a report before the police stating that she was a native of Hafeez Babanagar, Chandrayanaguda, Hyderabad. She went to USA on employment purpose twenty years ago and used to visit her family at her convenience. In the year 2005, she purchased a farm site No.273 in Sy.No.83 at Amity Park, Sector-I, admeasuring 500 Sq. yards situated at Pedda Shapur Village, Shamshabad Mandal, Ranga Reddy District for a valuable sale consideration. While she was away in USA, an unknown woman by impersonating her and by using fake aadhar cards and addresses executed a sale deed doc.No.11048/2022 dated 12.12.2022 in favour of one Smt. Abeda Begum. Subsequently, the said Abeda Begum also executed a sale deed doc.No.4445/2023 dated 05.06.2023 in favour of one Mr. Balagoni Venkatesh Goud. The said

persons were involved in fraudulent registration of her property and prayed to take action against six persons whose names were mentioned in the report. Basing on the said report, the above crime was registered for the above offences. The name of the petitioner-A5 was shown as one of the attesting witnesses to both the said registered sale deeds.

3. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submitted that the petitioner was neither the seller nor the purchaser of the alleged property in question. He only attended the Sub-Registrar Office as a witness for the sale deed transactions. As the petitioner was a near relative to A2, Abeda Begum and because of his close proximity to A2, he attended the sale registration process at Sub-Registrar Office, Shamshabad. None of the alleged offences mentioned under Sections 467, 468, 417, 419 and 420 read with 34 of IPC were applicable to the petitioner. He neither created nor forged any document. No notice under Section 41-A was issued to the petitioner. The petitioner was apprehending his arrest and prayed to grant anticipatory bail to the petitioner.

4.1. Learned counsel for the petitioner further relied upon the judgment of the High Court of Karnataka at Dharwad Bench in **Rajesh Totaganti and Another Vs. State of Karnataka**¹ wherein by relying upon the judgment of the Hon'ble Apex Court in **M.Srikanth Vs. State of Telangana and Another**², it was held that “attesting witnesses could not be held criminally liable solely for being an attesting witness, especially when there were no other allegations against them related to the alleged offences” and quashed the proceedings against him.

5. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioner, as the name of the petitioner was stated by the de-facto complainant in her report and as the petitioner was one of the attesting witnesses in both the sale deeds and that his role need to be investigated.

6. Perused the record. Considering that the petitioner was neither seller nor purchaser of the alleged property in question and none of the offences mentioned under Sections 467, 468, 417, 419, 420 read with 34 of IPC are applicable to the petitioner and he was only an attesting witness to the sale deed documents and considering the citation relied by the learned counsel for the petitioner which is also applicable to the facts of this case, it is

¹ Crl.P.No.100659 of 2023 dated 14.09.2023

² 2019(10) SCC 373

considered fit to enlarge the petitioner on anticipatory bail on certain conditions.

7. Accordingly, the Criminal Petition is allowed and the petitioner - accused No.5 shall be released on anticipatory bail subject to the following conditions:

- 1) The petitioner-Accused No.5 is directed to surrender before the Station House Officer, Shamshabad Police Station, Cyberabad, within a period of 15 days from the date of this order. On such surrender, the said Station House Officer shall release the petitioner on bail, on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.
- 2) The petitioner-Accused No.5 shall abide by the conditions stipulated under Section 438(2) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

March 19th, 2024
ss

Dr. G.RADHA RANI, J