

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3158 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner – Accused under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”), for grant of anticipatory bail in Crime No.223 of 2024 of Karimnagar II Town Police Station, Karimnagar District, registered for the offences punishable under Sections 290 and 506 of Indian Penal Code, 1860 (for short, ‘IPC’) and Section 3(1)(r)(s), 3(2),(va) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (for short, ‘SCs & STs (POA) Amendment Act’).

2. The case of the prosecution in brief was that on 14.03.2024 at 18:00 hrs, the *de facto* complainant lodged a report before the police stating that the petitioner/accused abused him in the name of his caste and threatened him with dire consequences to kill him due to business transactions between them.

3. Notice was issued to the respondent No.2 and it was served on respondent No.2 on 26.03.2024, but there is no representation for respondent No.2.

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

5. Learned counsel for the petitioner/accused submitted that the family members of the petitioner were the owners and possessors of the Ground and First floors of the premises bearing door No.3-4-60 to 3-4-67, S.F.K.Towers, besides Dr.Bhoomreddy Hospitals, Doctor Street, Karimnagar, having purchased the same from one Miran Begum through registered sale deed in the year 2016. Subsequently, the *de facto* complainant purchased 2nd, 3rd and 4th floors of the said building by obtaining loan from HDFC Bank, Karimnagar. The petitioner and the *de facto* complainant had established M/s Sai Hospitals in the said premises. The petitioner was the Chairman and the *de facto* complainant was the Managing Director of the said

Hospital. In the year 2019, the petitioner and *de facto* complainant have leased out the entire premises with all the hospital equipment to M/s.Chanda Neuro & Trauma Care Centre represented by its Managing Partner Dr.Chanda Srinivasa Rao. Subsequently, disputes arose between the petitioner and the *de facto* complainant regarding realization of the lease amount. The *de facto* complainant was indebted to the petitioner to a tune of Rs.28,00,000/- (Twenty Eight Lakhs) till June 2022 and he was avoiding payment to the petitioner on one pretext or the other. Till date another amount of Rs.20,00,000/- fell due to the petitioner. Altogether, the *de facto* complainant had to pay the petitioner an amount of Rs.48,00,000/- (Forty Eight Lakhs). During the year 2022, when the petitioner demanded the payment of amount, the *de facto* complainant threatened him with dire consequences and abused him. The petitioner lodged a complaint on 26.07.2022. In spite of it the *de facto* complainant did not choose to pay the amount due to the petitioner. The petitioner issued a legal notice dated 08.08.2022 calling upon him not to resort to any illegal activities.

6. On 26.02.2024 at 5:15 P.M, the petitioner received a call from the Office of the Assistant Commissioner of Police directing him to appear stating that the *de facto* complainant filed a complaint against him. The petitioner gave a written explanation dated 28.02.2024 to the allegations leveled against him but the police directed him to settle the matter with the *de facto* complainant. On 03.03.2024, the petitioner lodged a complaint to take action against the *de facto* complainant for making false allegations against him. But the police had not registered any case though they had given acknowledgment on 03.03.2024. Having no other option, the petitioner filed W.P.No.5882 of 2024 to declare the action of the ACP, Karimnagar in calling him to his office without registering any case against him as illegal and arbitrary. The said Writ Petition was disposed of vide order dated 05.03.2024. On 05.03.2024, the petitioner had issued a legal notice to the complainant to vacate the premises after paying the entire dues.

7. He further submitted that a false case was foisted against the petitioner/accused. The petitioner was not present at the place of incident at the said date and time. If the CCTV footages were verified, the said fact would be known and prayed to enlarge the petitioner/accused on anticipatory bail.

8. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioner/accused stating that there were allegations against the petitioner that he abused the complainant in the name of his caste and there was a bar under Section 18 of SCs and STs (POA) Act to release the petitioner on anticipatory bail and opposed the petition.

9. Perused the record.

10. As seen from the record, there were civil disputes between the petitioner and the *de facto* complainant for which cases were lodged by the petitioner herein against the *de facto* complainant and a legal notice was also issued by the petitioner herein. The petitioner was stating that he was not present at the

scene of offence at the alleged date and time and that he was at Hari Hara Jewellers, Tower Road, Karimnagar upto 15:46 hours and proceeded to Hyderabad in his Toyota Innova Vehicle and crossed the Renikunta Toll Plaza on Karimnagar to Hyderabad Highway at about 16:15 hours and also crossed Duddeda Plaza at 16:56 hours which was 70 Kms away from the place of incident. His contention was that the CCTV footages if verified, the truth would be known and the police had registered a case without verifying the same. As per the judgment of the Hon'ble Apex Court in **Prithvi Raj Chauhan v. Union of India and Others**¹ if the complaint does not make out a *prima facie* case for applicability of the provisions of SC & ST (PoA) Act, 1989, the bar created by Section 18 and 18 A (2) would not apply. As such, this Court does not find any merit in the contention of the learned Additional Public Prosecutor with regard to the maintainability of the application under Section 438 Cr.P.C. As the presence of the petitioner at the alleged date and time of the incident itself is suspicious, it is considered fit to enlarge the

¹ (2020) 4 SCC 727.

petitioner on bail.

11. Accordingly, the Criminal Petition is allowed directing the petitioner/accused to be released on anticipatory bail subject to the following conditions:

i) The petitioner-Accused is directed to surrender before the Karimnagar II Town Police Station, Karimnagar District, 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.50,000/- (Rupees Fifty Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.

ii) The petitioner/Accused shall abide by the conditions stipulated in Section 438(2) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Date:03.04.2024
dgr

Dr. G.RADHA RANI, J