

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3992 OF 2024

ORDER:

This Criminal Petition is filed by the petitioners – Accused Nos.4 and 5 under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”), to release them on regular bail in connection with Crime No.4 of 2024 on the file of CCS, DD Police Station, Hyderabad registered for the offences punishable under Section 406, 420 read with 34 of Indian Penal Code (for short ‘IPC’) and Section 5 of the Telangana Protection of Depositors of Financial Establishments Act, 1999 (for short ‘TSPDFE Act’).

2. The case of the prosecution in brief was that on 03.01.2024 at 20:30 hours, the de-facto complainant lodged a report stating that the complainant along with his wife had invested amounts in a middle class dream home project launched by A1. They collected substantial amounts from the customers/ depositors under the guise of pre-launch real estate, promising to issue property in their project and subsequently cheated the victims to a tune of Rs.2,29,72,000/-. As on today, including the de-facto complainant, 10 victims were cited. The petitioners were arrested on 14.03.2024 and were also taken into

police custody from 24.03.2024 to 26.03.2024 and were in judicial remand since then.

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent – State.

4. Learned counsel for the petitioners submitted that the petitioners were no way concerned in the present crime. Their names were not mentioned by the *de-facto* complainant in the F.I.R. The petitioner No.1-A4 is the father of petitioner No.2-A5. The petitioner No.1 was having vast experience in read estate marketing. The accused Nos.2 and 3 appointed the petitioner No.1 as marketing person in the A1's Company in the year 2020 to sell the projects of the A1's Company in and around Hyderabad City. Wherein, the A1's Company also executed an undertaking letter dated 18.07.2020 for any liabilities arising thereof. The petitioner No.2 was no way concerned with the present crime. He was also not an employee, Director nor involved in day to day affairs of the A1's Company at any point of time. The petitioner No.2 being the son of the petitioner No.1, the respondent deliberately included the name of the petitioner No.2 in the present crime and only to harass the petitioners.

5. He further submitted that the petitioners were absolute owners of land in Sy.No.685 Part of Shamirpet Village and Mandal, Medchal-Malkajgiri District. The accused Nos.2 and 3 hatched a Conspiracy and convinced the petitioners to sell the above land in favor of the several individuals and they in turn executed DAGPA No.3797 of 2022, in favor of A1's Company represented by A2 with certain terms and conditions. In fact, the A1, represented by A2 and A3 never paid sale consideration to the petitioners and dodged the matter on one or the other reason. The A2 and A3 appointed the petitioner No.1 as director on 17.02.2023 but after realizing the behavior of the A2 and A3 and vexed with their attitude the petitioner No.1 was resigned from his director post on 14.08.2023. The petitioner No.1 was not personally liable for the sale of flats in view of the undertaking letter dated 18.07.2020 for any liabilities arising thereof. In fact, the petitioners themselves got cheated by the A2 and A3. The entire amounts collected during the sale of flats were deposited in A1's Company account alone itself and such funds was never utilized or misused by this petitioners.

6. He further submitted that some third party has filed a Civil Suit vide O.S.No.198 of 2022 on the file of learned II Additional District Judge, Medchal-Malkajgiri District at Medchal for the relief of Partition and other reliefs against the A1's Company. Thereafter, the HMDA vide notice dated 20.10.2023 instructed the A1's Company to stop the construction activities over the subject property, due to the pendency of O.S.No.198 of 2022. The accused with no other go, halted the construction activities, but never intended to cheat the *de-facto* complainant or others. In view of the letter issued by the HMDA, the accused and these petitioners were forced to stop the construction work. He further submitted that A2 was granted bail by this Court and A3 was also granted anticipatory bail and prayed to enlarge the petitioners on bail.

7. Learned Additional Public Prosecutor opposed grant of bail to the petitioners stating that the petitioners along with the other accused persons colluded with each other with common intention to cheat the needy customers by making false promises to complete the projects within the stipulated time and executed several agreements of sales and collected huge deposits from them. Even after the letter received from the HMDA, they collected amounts from several

innocent people and deceived them to purchase the flats in their projects and collected huge amounts from them but they neither handed over the flats nor returned their amounts. He further contended that the petitioners along with other accused with a common intention deceived various needy customers about 400 and under the guise of selling the flats in their project and collected huge deposits from them and caused wrongful loss to a tune of 80 Crores and prayed to dismiss the bail application of the petitioners.

8. Perused the record. Considering that a civil case vide O.S.No.198 of 2022 was filed by a third party, which was not foreseen by the petitioners and also a letter was received from the Planning Authority of HMDA to stop the construction and as the petitioners were made to stop the work due to the circumstances beyond their control and as the petitioners were in custody since 14.03.2024 and their custodial interrogation was also completed and their further custody was not required for completing the investigation, it is considered fit to enlarge the petitioners – Accused Nos.4 and 5 on bail.

9. Accordingly, the Criminal Petition is allowed and the petitioners – Accused Nos.4 and 5 shall be released on regular bail subject to the following conditions:

- i) The petitioners – Accused Nos.4 and 5 shall execute 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 learned Metropolitan Sessions Judge, Hyderabad.
- ii) The petitioners – Accused Nos.4 and 5 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Date:19.04.2024
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Dr. G.RADHA RANI, J

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3992 OF 2024

Dated:19.04.2024

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