THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.4085 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner – Accused No.4 under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C"), for grant of regular bail in Crime No.47 of 2024 on the file of Central Crime Station, Hyderabad registered for the offences punishable under Sections 406, 420 read with 120-B of Indian Penal Code, 1860 (for short, 'IPC') and Section 5 of Telangana Protection of Depositors Of Financial Establishments Act, 1999 (for short, 'TSPDFE Act').

2. The case of the prosecution in brief was that on 16.02.2024 at 21:10 hours, a joint complaint was given by one G.Kiran Kumar Goud and E.Sairam stating that in 2020 they came to know about the pre-launch offers for selling of flats in the "Tulasi Bhagyanagar" project through an Agent in December, 2020. The agents Umashankar and Krishna Prasad introduced them to Chekka Venkata Subramanyam (the present petitioner herein) as M.D of Bhuvanateja Infra Projects Private Limited at the project site in

Dundigal. The petitioner provided them the project details and convinced them to invest in the gated community project, which was supposed to be completed within three years. On 20.11.2020, he paid an advance amount of Rs.6,00,000/- through a cheque for flat booking. A sale agreement was entered on 23.11.2020 for a flat, with a built-up area of 990 Sq.ft. Further payments were made through cheques for a total sale consideration of Rs.24,00,000/-. Despite assurances of registration within 10 days after full payment on 13.02.2021, the registration was delayed. Additional payment of Rs.50,000/- for certain works were also paid on 17.06.2023 to Green Metro Infratech & Projects Limited, with a balance of Rs.50,000/- to be paid upon completion of the work. The other complainant, by name E.Sai Ram also stated that he was also cheated in a similar way and that he paid a total amount of Rs.31,00,000/- and that he was waiting for three years for registration of flat, but the company had attributed delays to financial disputes between Green Metro and Bhuvanateja and that nine other victims also contacted the complainant and the complainant got knowledge that nearly 25 people were cheated to a tune of Rs.2,56,92,250/-. Basing on the said report, the above crime was registered by the respondent No.2 Central Crime Station, Hyderabad vide Crime No.47 of 2024 against accused Nos.1 to 4 for the offences under Section 420, 120-B and 406 read with 34 of IPC and Section 5 of TSPDFE Act. The petitioner was arrested on 11.02.2024 in Crime No.4 of 2024 and thereafter he was produced on PT.Warrant in the present crime. He was also taken into police custody from 20.03.2024 to 23.03.2024.

3. Heard the learned counsel for the petitioner-accused No. 4 and the learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner-accused No.4 submitted that the petitioner had launched the project of M/s.Bhuvanateja Infra Project Private Limited by purchasing the land from his vendor. He had plans to go further with the construction and completion of the project as promised to his customers including the complainant in this crime. He had even obtained permission for the project and the complaint itself would disclose the HMDA and RERA numbers. When everything was going as planned, the petitioner received letter from the Planning Authority HMDA dated 20.10.2023 to stop construction in view of the orders in O.S.No.198

of 2022. As such the petitioner was unable to proceed with the planned construction work. The stoppage of the work was due to the institution of the suit and intimation by the HMDA but not with an intention to cheat the customers. The petitioner had even registered the plots in the name of the customers including the complainant who had purchased them. The stoppage of the work was due to the circumstances beyond his control. The petitioner was one of the defendants in the suit (defendant No.88). He was the victim of the suit instituted against accused No.3. The allegations in the complaint would not attract the ingredients of Section 420, 406 of IPC and Section 5 of TSPDFE Act, 1999 and prayed to enlarge the petitioner on bail.

5. Learned Additional Public Prosecutor opposed grant of bail to the petitioner stating that the petitioner had cheated several persons to a tune of Rs.2,56,92,250/- after receiving the amounts from them. He failed to complete the projects within the time and also received amounts as investment/deposit which would attract the offence under Section 5 of TSPDFE Act and opposed grant of bail to the petitioner.

6. Perused the record.

7. Considering that a civil suit was filed by one Gollapalli Trineth Koundinya vide O.S.No.198 of 2022 seeking partition and separate possession in which the accused No.3 M/s.Bhuvanteja Infra Projects Pvt Ltd was shown as defendant No.88 and the letter dated 28.10.2023 was issued by HMDA to stop the construction activity in view of the orders in O.S.No.198 of 2022 and the petitioner was unable to proceed with the construction work due to the circumstances beyond his control and the offences under Sections 420 and 406 of IPC *prima facie* would not attract as there should be an intention to cheat from the beginning itself to attract the offence under Section 420 of IPC and the petitioner registering land in favour of the complainant and other victims would *prima facie* would show that he had no intention of cheating them and to attract the offence under Section 405 of IPC, the property entrusted should be converted to his own use or to be dishonestly misappropriated in violation of any direction of law prescribing the mode in which such trust has to be discharged and to attract the offence under Section 5 of TSPDFE Act, there should be a financial establishment and it should default in

the return of the deposit either in cash or kind or ought to have defaulted in the payment of interest on the deposit as agreed upon and there is no agreement between the parties to consider that the amount was deposited with an intention to receive interest on that and the accused Nos.1 to 3 are not financial establishments but real estate companies and the petitioner was not required for further investigation of the case as custodial interrogation was also completed, it is considered fit to enlarge the petitioner on bail.

8. Accordingly, the Criminal Petition is allowed directing the petitioner/accused No.4 to be released on regular bail subject to the following conditions:

i) The petitioner/Accused No.4 shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for a like sum each to the satisfaction of the Metropolitan Sessions Judge at Hyderabad.

ii) The petitioner/Accused No.4 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.

iii) The petitioner/Accused No.4 is further directed not to leave India without permission of the Court concerned.

Miscellaneous applications, pending if any, shall stand closed.

Dr. G.RADHA RANI, J

Date:**25th April, 2024**
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