

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.4491 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 the event of his arrest in Crime No.108 of 2024 on the file of Central Crime Station, Hyderabad registered for the offences punishable under Sections 406, 420 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 07.02.2024 at 14:09 hours, the *de facto* complainant by name M.Mahesh Kumar along with M.Swaropa Rani, A.P.Ajay Kumar came to know about lower price flats near shameerpet and that the petitioner was offering the flats at the rate of Rs.1600/- per SFT as a pre-launch offer. On that they paid an advance of Rs.6,00,000/- for the flats to petitioner-accused of M/s.Bhuvantaja Infra Private Limited and then after 45 days, all the three of them paid the remaining amount and they received land registration and passbook in the year 2021. Thereafter, on 04.06.2022, development

agreement was done for 21 members including Mahesh Kumar, but after a long time also they did not start the construction. Due to the delay they asked to cancel the plan. The M.D of Bhuvanateja Infra Private Limited agreed to enter into an MOU and to pay 10% within six months but did not pay them. Later on 01.04.2023, he had given cheques for 80 members along with the complainant and asked them not to deposit the cheques in the banks. The complainant along with his partners approached the petitioner herein and demanded to pay the amount by October, 2023, but till date, he failed to pay the amount and also blocked their numbers on phone. He came to know that the petitioner cheated many people in the name of pre-launch offer and requested to take action against M/s.Bhuvanateja Infra Private Limited represented by its Managing Director Mr.Venkat Subramanyam (the present petitioner herein). Basing on the said report, the above crime was registered for the offences under Sections 420, 406 of IPC and Section 5 of TSPDFE Act against the petitioner herein.

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

4. Learned counsel for the petitioner-accused submitted that

the petitioner was a business man and 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. 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 order 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 him. 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. After receiving the amounts from them, he failed to complete the projects within time. He also received the 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 Private Limited 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* 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 have defaulted in the return of the deposits 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 No.1 is not a financial establishment, but a real estate company and several cases were registered against him in several police stations and though all the cases were transferred to CCS and though the petitioner was remanded in one case and taken on PT Warrant in the other case, he was not produced on PT Warrant in this case and were producing him one after the other, it is considered fit to grant anticipatory bail to the petitioner in the present case.

8. 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 himself before the Station House Officer, Central Crime Station, Hyderabad, within a period of (15) days from the date of this order. On such surrender, the said Station House Officer shall release the petitioner-accused on bail, on his executing 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 said Station House Officer.
- ii) The petitioner/Accused shall abide by the conditions stipulated in Section 438(2) of Cr.P.C.
- iii) The petitioner/Accused is further directed not to leave India without the permission of the concerned trial court.

Miscellaneous applications, pending if any, shall stand closed.

Date:25th April, 2024
dgr

Dr. G.RADHA RANI, J