

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.4592 of 2024

ORDER:

This Criminal Petition is filed by the petitioners - A2 and A3 under Section 438 of Code of Criminal Procedure for grant of anticipatory bail in the event of their arrest in Crime No.251 of 2024 dated 16.04.2024 on the file of PS Sanath Nagar, registered for the offences punishable under Sections 364-A, 346, 324, 109, read with Section 34 of IPC.

2. The case of the prosecution in brief was that on 02.04.2024 at 19:00 hours, the *de facto* complainant came to PS Kukatpally and lodged a report stating that he along with his friends M.Venkata Raja and A.V.K.Vishwanadha Raju (the petitioners - A2 and A3 herein) were developing the land under Rajarajeswara Constructions. Both of them asked him to invest money and offered him to give 10%. He gave an amount of Rs.60,00,000/-. In the year 2019, they gave him a flat in Czech Colony. He got its sale deed registered in the name of his daughter. He got the wood work done in that flat and was residing with his family members in flat bearing No.502 of Vijaya Grandeur Apartment given to him. Two months later, Raja contacted him over phone and stated that he was due an amount of

Rs.5,00,000/- more. He suggested to him that they could finalize the accounts. But Raja stated that there was no such thing like finalization of accounts and he had to give the money, otherwise, he would be after him. Later, the Task Force Police came to his house and took him to their Office at Secunderabad informing him that they needed to discuss regarding a case. They detained him there for two days and beat him with rubber. Ex-Deputy Commissioner of Police Radhakishan Rao abused him in filthy language and threatened him that he should vacate the said flat otherwise Raja would get him killed. Because of the said threatening, he got the sale deed cancelled by his daughter. Radhakishan Rao got him beaten by his staff members. The complainant requested to take legal action against three persons who detained him for two days and had beat him with rubber and for getting the sale deed, which was registered in the name of his daughter, cancelled.

3. The said complaint was initially registered as Crime No.348 of 2024 by PS Kukatpally and thereafter transferred to PS Sanath Nagar on the point of jurisdiction. The same was re-registered as Crime No.251 of 2024 under Sections 364-A, 347, 324, 109, read with Section 34 of IPC.

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

5. Learned counsel for the petitioners submitted that contrary to the claim made by the *de facto* complainant that he invested Rs.60,00,000/- in Rajarajeshwara Constructions, the company owned by the petitioners herein, the *de facto* complainant invested an amount of Rs.31,90,000/- only in the said company along with his wife. In return of his investments, the petitioners provided an amount of Rs.68,50,000/- to the *de facto* complainant. Thus, the *de facto* complainant gained a profit of Rs.36,60,000/- from the said investment. After completion of the project, the petitioners returned the said amount to the *de facto* complainant and he had given an undertaking in his own handwriting duly attested by the witnesses for having received the due amount in full and stated that he had no further transactional relations with the company. The *de facto* complainant intended to purchase an apartment from the petitioners herein and purchased Flat No.502 in Vijaya Grandeur vide sale deed document bearing No.8912 of 2019 dated 19.03.2019, which was executed by the wife of petitioner No.2 in favor of the daughter of the *de facto* complainant. As per the sale deed, the total sale consideration of Rs.40,13,500/- was agreed upon. The *de facto* complainant initially paid an advance amount of Rs.5,00,000/- and agreed to pay the balance amount in installments through four cheques, three of which were to be drawn for an amount of Rs.10,00,000/- each and one cheque for an amount of Rs.5,13,500/-. Apart from the initial advance amount of Rs.5,00,000/- which was paid through

bank transfer, all the cheques mentioned in the sale deed were not honored. Various attempts were made by the petitioners to persuade the *de facto* complainant to clear the amounts. But he paid deaf ear. Upon insistence by the petitioners, the *de facto* complainant threatened them with dire consequences. As such, the petitioners No.2 was constrained to file a criminal case against the *de facto* complainant before PS Sanath Nagar vide Crime No.189 of 2020 for the offences punishable under Sections 506 and 507 of IPC. Upon registration of the criminal case, the *de facto* complainant approached the petitioners herein for a compromise. The *de facto* complainant executed a deed of cancellation dated 10.06.2020. The conveyance thereafter stood cancelled. Upon such settlement, the petitioner No.2 had withdrawn the criminal complaint lodged by him, as per the letter dated 24.07.2020 given to PS Sanath Nagar. In addition, the advance amount of Rs.5,00,000/- paid to the petitioners was also repaid back to the *de facto* complainant on 03.09.2020. However, the *de facto* complainant refused to vacate the premises and demanded additional payment and continued his high-handed attitude, due to which the petitioners were constrained to pay an amount of Rs.20,00,000/- to get him vacate the said flat No.502. Thereafter, no communication existed between the parties since 2020.

5.1. Learned counsel for the petitioners further submitted that the *de facto* complainant had close connections with the incumbent politicians and was also involved in a murder case. The present complaint was lodged with an unexplained delay of four years. The same was instituted as a second thought only to take advantage of the changing political scenario. None of the offences alleged in the complaint were applicable to the petitioners. The nature of the offence was primarily civil in character. The *de facto* complainant was using police force to arm twist the petitioners. The petitioners only registered the complaint for valid reasons with PS Sanath Nagar. They had no connection with A1 or any contact with the police after registration of the said complaint and prayed for grant of anticipatory bail to the petitioners.

6. Learned Additional Public Prosecutor vehemently opposed grant of anticipatory bail to the petitioners stating that the petitioners lodged the complainat earlier, which was registered as Crime No.189 of 2020 only to settle the civil dispute between them and used the police machinery. The allegations would disclose the offences of grave nature committed by the petitioners with the use of the police machinery, as such, they were not entitled for grant of anticipatory bail and opposed the petition.

7. Perused the record.

8. As seen from the record, the present complaint was lodged with regard to an incident that took place four years ago. The *de facto* complainant was alleging that after registering the case in Crime No.189 of 2020 with PS Sanath Nagar by the petitioners herein, the Task Force Police came to his house and detained him in their Office at Secunderabad for two days, beat him with rubber, threatened him and got the sale deed cancelled by his daughter. The role of the present petitioners in these offences of kidnapping or abduction under 364-A of IPC, wrongful confinement under Section 347 of IPC and voluntarily causing hurt under Section 324 of IPC and abetment under Section 109 of IPC is conspicuously absent. The said allegations were made against the ex-Deputy Commissioner of Police Radhakishan Rao, who mis-used his official position and helped the petitioners herein to finalize the accounts between the petitioners herein and the *de facto* complainant. As it was the officials, who abused their official position and helped the private parties in settling the disputes by bringing the accused / suspects to the police station and committed the alleged offences, the same cannot be attributed to the petitioners herein. Considering the delay in lodging the report and as the alleged offences could not be attributed to the petitioners herein, it is considered fit to enlarge the petitioners on anticipatory bail on certain conditions.

9. In the result, the Criminal Petition is allowed and the petitioners - A2 and A3 are granted anticipatory bail subject to the following conditions:

(i) The petitioners – A2 and A3 are directed to surrender themselves before the Station House Officer of PS Sanath Nagar, Cyberabad within a period of (15) days from the date of this Order, and on such surrender, the SHO of PS Sanath Nagar, Cyberabad shall release the petitioners – A2 and A3 on bail on their executing a personal bond for a sum of Rs.50,000/-each (Rupees Fifty Thousand only) with two sureties each for a like sum each to the satisfaction of the said Station House Officer.

(ii) The petitioners – A2 and A3 shall comply with the conditions laid down under Section 438(2) of Cr.P.C.

As a sequel, miscellaneous applications pending in this petition, if any shall stand closed.

Dr. G. RADHARANI, J

Date: 29th April, 2024
Nsk.