

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION No.14971 of 2024

ORAL ORDER:

Seeking the Court to enlarge the petitioner who is arrayed as sole accused in Crime No.554 of 2024 dated 22.11.2024 before the OU Police Station, Hyderabad, on bail, the present Criminal Petition is filed.

2. The brief facts of the case are that the complainant alleged that the petitioner, who claims to be the proprietor of Vijaya Infra Developers, approached him with a proposal to purchase a plot in Siyora Group. The complainant, believing the representations of petitioner, agreed to buy the plot (No. 135, admeasuring 222 Square Yards in S.No.109 to 115, 156 to 160) situated at Hasmathpur Village for a consideration of Rs. 22,22,000. After receiving the payment, the petitioner executed an undertaking cum declaration on 03.09.2022, promising to register the plot in the name of complainant. However, the petitioner failed to fulfill his commitment and instead registered the plot in favor of third parties, thereby cheating the complainant for his wrongful gain. When the

complainant demanded repayment of the sale consideration, the petitioner issued two cheques (No. 000477 dated June 26, 2023, and No. 000475 dated July 26, 2023) to partially discharge his liability. Based on the said complaint, the Police registered case against the petitioner for the offences punishable under Sections 420 and 406 of Indian Penal Code, 1860 (for short 'IPC').

3. Heard Smt Sahithi Sri Kavya Mukkera, learned counsel appearing on behalf of the petitioner as well as Sri Syed Yasar Mamoon, learned Additional Public Prosecutor appearing on behalf of the respondent.

4. Learned counsel for the petitioner submitted that assuming all allegations in the complaint are true, it merely constitutes a civil dispute between the complainant and the petitioner, warranting a suit for specific performance in a civil Court. She relied on the judgment rendered by the Hon'ble Supreme Court in **Sarabjit Kaur vs State of Punjab**¹ emphasizing that failure to keep a promise alone is insufficient to initiate criminal proceedings, and that criminal

¹ 2023:PHHC:082072

Courts should not be used to settle scores or pressure parties to resolve civil disputes. She lamented that the petitioner be granted bail, as the Hon'ble Supreme Court has consistently held that "bail is a right, denial is an exception," and that a free and fair trial is guaranteed under Article 21 of the Constitution of India. Additionally, she asserted that the petitioner being the sole breadwinner with a wife and two minor children dependent on him, prayed the Court to grant bail to the petitioner by allowing this criminal petition.

5. Learned Additional Public Prosecutor countered that serious allegations have been made against the petitioners stating that the investigation is not yet completed. At this stage, granting of bail to the petitioner does not arise. Hence, he prayed the Court to dismiss the criminal petition.

6. Considering the submissions made by both the learned counsel and a perusal of the material available on record, it is to be noted that the allegations leveled against the petitioner are under Sections 420 and 406 of the IPC, which carry punishments of less than seven (7) years. As the material part of the investigation is completed, and the only allegation against the petitioner is that he failed to register the sale

despite receiving the sale consideration, the Court deems it fit to grant bail to the petitioner with the following conditions:

- i. The petitioner shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties for a like sum each to the satisfaction of the IV Additional Chief Judicial Magistrate, at Hyderabad.
- ii. The petitioner shall appear before the concerned SHO at 11:00 a.m., on every Monday for a period of eight (8) weeks, for the purpose of investigation, and thereafter, as and when required.
- iii. The petitioner shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.

7. Accordingly, the Criminal petition is allowed.

Miscellaneous applications, if any pending, shall stand closed.

K. SUJANA, J

Date: 09.12.2024
SAI

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