

THE HON'BLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION NO.15119 OF 2024

ORDER:

This criminal petition is filed by the petitioner No.1/A.2 seeking anticipatory bail in the event of his arrest in Cr.No.438 of 2024 of Chaitanyapuri Police Station, Rachakonda. The offences alleged against the petitioner No.1 are under Section 406 and 420 r/w. Section 34 of Indian Penal Code (for short 'I.P.C') and under Section 5 of the Telangana State Protection of Depositors of Financial Establishment Act, 1999 (for short 'Act').

2. The case of the prosecution is that the defacto-complainant lodged a report before the police stating that Mukesh Chowdary who is his friend requested him to invest the amount in his family business which was run and operated by his relatives i.e., Amit Pilonia, Rajesh Pilonia and Ajay Pilonia and thereafter Mukesh Chowdary had convened a meeting in which the above said persons met him and stated that they run and operate road carriers business across India and they are planning to expand their business and they require additional investments and that they would pay huge returns @ 20% on the invested amount every month without fail. It is further

stated that believing their words, the defacto complainant invested Rs.1,90,00,000/- and later he came to know that the amount invested by him was not put in their business activities but the same was utilized for their personal needs and stated that he can do whatever he likes as no one can question them. Hence, the complaint. Basing on the said complaint, the police registered the case against the petitioners for the above said offences.

3. Heard Sri G.Anil Kiran Kumar, learned counsel for the petitioners, Sri Rapolu Bhaskar, learned counsel appearing for the 2nd respondent and learned Additional Public Prosecutor appearing for the respondent-State.

4. The contention of learned counsel for the petitioners is that Section 5 of the Act is not applicable to the present case, as it is only a business transaction. Therefore, it is illegal to invoke the said provision and relied on the judgment of Orissa High Court in **Rashmita Patra Vs State of Odisha and Others**¹. He further contended that even if the allegations are proved it do not constitute the offence under Sections 406 and 420 of I.P.C, as there is no deception or fraudulent act on the part of

¹ 2021 SCC Online Ori 1641

petitioner No.1. Even the Sections 406 and 420 of I.P.C, are punishable with below seven years as such, petitioner No.1 is entitled to Section 41-A Cr.P.C, as per the judgment in ***Arnesh Kumar v. State of Bihar***². As such, requested the Court to grant anticipatory bail to the petitioner No.1.

5. Further, on 13.12.2024, the learned counsel for the petitioners has withdrawn the criminal petition in respect of petitioner Nos.2 and 3/accused Nos.3 and 4.

6. On the other hand, the 2nd respondent-defacto complainant has impleaded himself and filed counter stating that he invested huge amount with the accused and A.2 to A.4 are the habitual offenders and they have cheated thousands of victims and also collected an amount of Rs.120 Crores. As such, they are involved in number of crimes and they are liable for punishment under the provisions of P.D.Act because they have cheated innocent persons and looted hundreds of Crores of rupees and there are number of crimes registered against the accused in different States. As such, opposed granting of bail to petitioner No.1 and prayed to dismiss this petition.

² (2014) 8 SCC 273

7. Having regard to the submissions made and the material on record, the allegations apparently shows that the 2nd respondent invested the amount due to acquaintance with the accused in their business, but infact they have not invested the same and used for their personal use. There is no allegation against the accused that it is a deposit made with the accused. Simply investing the amount in the business does not attract Section 5 of the Act and there is no financial establishment to constitute the offence under Section 5 of the Act. However, though learned counsel for the 2nd respondent submitted that petitioner No.1 is involved in many crimes and filed one of the FIR registered in another state, that itself is not a ground to deny anticipatory bail as the remaining offences under Section 406 and 420 of I.P.C, are punishable with below seven years. As such, this Court deems it fit to grant anticipatory bail to petitioner No.1 subject to the following conditions:-

- 1) The petitioner No.1/Accused No.2 is directed to surrender before the Station House Officer, Chaitanyapuri Police Station, Ranga Reddy District, Rachakonda Commissionerate within two weeks from today, and on such surrender, the said Station House Officer shall release the petitioner No.1/accused No.2 on pre- arrest bail on executing a

personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to his satisfaction.

- ii. The petitioner No.1 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 till filing of charge sheet, and thereafter, as and when required.
- iii. The petitioner No.1/accused No.2 shall abide by the other conditions stipulated in Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 and shall co-operate with the Investigating Officer in investigating the case.

8. Accordingly, the Criminal Petition is allowed.
Miscellaneous applications, if any pending, shall stand closed.

Date :23.12.2024
Rds

K. SUJANA, J

THE HON'BLE SMT. JUSTICE K. SUJANA

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DATE : 23.12.2024

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