

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

THURSDAY, THE TWENTY SEVENTH DAY OF MAY, TWO THOUSAND AND TWENTY ONE
: PRESENT :

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRL.P.No. 3046 of 2021

Between:-

K.P.V. Subbaiah, S/o. Ramaiah, R/o. G3, Legend Apartments,
Road No.11, Banjara Hills, Hyderabad -500034.

.....Petitioner/Accused.

AND

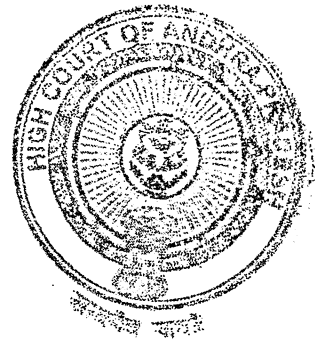
The State of Andhra Pradesh, Rep. by its Public Prosecutor,
High Court of Andhra Pradesh at Amaravathi, Through Station House
Officer, P.S. Rayachoti Urban, YSR Kadapa District

.....Respondent/Complainant.

Petition filed under Section 438 of Cr.P.C. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to enlarge the petitioner on bail in the event of his arrest in Crime No. 131 of 2021 dated 08.05.2021 on the file of P.S. Rayachoti Urban, YSR Kadapa District.

The petition coming on for hearing, upon perusing the memorandum of grounds filed in support thereof and upon hearing the arguments of Smt G. Poorna Sri, Advocate for the Petitioner and of the Public Prosecutor on behalf of respondent/State, the Court made the following

ORDER :-



THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO. 3046 OF 2021

ORDER:-

This Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking pre-arrest bail to the petitioner/accused in the event of his arrest in connection with Crime No.131 of 2021 of Rayachoti Urban Police Station, YSR Kadapa District registered for the offence punishable under Section 420 of the Indian Penal Code, 1860 (for short "I.P.C.").

2. A complaint was lodged to the Station House Officer, Rayachoti Urban Police Station stating that believing the words of the accused that he would purchase lands for company purpose in Hyderabad area, the *de facto* complainant paid amount to the accused and to the people concerned through cheques and RTGS in the month of April, June, August and September, 2010, totaling an amount of Rs.7,40,40,000/- was paid by him. For that, the accused has issued cheques to the *de facto* complainant in the name of Sri Sai Institute of Technology and Sciences, Rayachoty, Kadapa District and also handed over the documents of Sri Sai Civil Engineering and Consultant, Hyderabad. After that, some lands which were located in Hyderabad area have been registered in favour of *de facto* complainant. The said lands are not in use and disputes pending against the said lands before the Telangana High Court. After that they have entered memorandum of understanding on 11-08-2012, 01-02-2015 and on 16-08-2019.

Even then the accused has not solved the land disputes till now and not paid the amounts which were received from the *de facto* complainant and thereby cheated him and the accused has to pay Rs.9,75,00,000/- to him, as such they have come up with the complaint.

3. Heard Smt. G.Poorna Sri, learned counsel for the petitioner and the learned Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submits that this is purely a civil dispute between the parties and a Commercial suit i.e. O.S.No.10 of 2017 has already been instituted before the Commercial Court-cum-XIII Additional District Judge, Rangareddy District at L.B. Nagar, which is pending consideration. She submits that all the parties are residents of Hyderabad cause of action arose in Hyderabad and for the reasons best known, the complaint has been instituted at Rayachoti in Kadapa District. In the complaint, it is specifically averred about pending litigation before the Telangana High Court and as per the complaint they entered into memorandum of understanding on 11-08-2012, 01-02-2015 and on 16-08-2019 and only allegation against the petitioner is that the petitioner had not paid money and other disputes with regard to the land were not cleared and thereby cheated the *de facto* complainant. According to them, the petitioner has to pay an amount of Rs.9,75,00,000/- he also made them to purchase the lands which are in dispute and cheated them. Learned counsel for the petitioner submits that the allegations in the complaint do not constitute the offence

punishable under Section 420 of I.P.C. The *de facto* complainant with an intention to settle the civil disputes has set the criminal law into motion.

5. On the other hand, learned Public Prosecutor submits that there are specific allegations against the petitioner, who has cheated the *de facto* complainant to a tune of Rs.9,75,00,000/-, as such he is not entitled for pre-arrest bail.

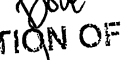
6. Admittedly there are disputes pending between the parties and the suits were also filed in the year 2017. For the very same cause of action the present complaint is filed. *Prima facie* it appears that the criminal law is set into motion to settle the civil dispute.

7. Taking into consideration all these facts, this Court deems it appropriate to grant pre-arrest bail. Accordingly, this Criminal Petition is allowed. The petitioner/accused shall be released on bail in the event of his arrest in connection with Crime No.131 of 2021 of Rayachoti Urban Police Station, YSR Kadapa District on a condition of executing self bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for a likesum each to the satisfaction of the Station House Officer, Rayachoti Urban Police Station, YSR Kadapa District. He shall co-operate with the investigation and shall not tamper with the evidence. In case the petitioner failed to co-operate with the enquiry and tried to influence the witnesses, the police are at liberty to move a proper application for cancellation of bail.

Consequently, miscellaneous applications pending, if any, shall stand closed.

SD/- G. SREENIVAS REDDY
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER
for ASSISTANT REGISTRAR

To

1. The Station House Officer, Rayachoti Urban Police Station,
YSR Kadapa District.
2. Two CCs to the Public Prosecutor, High Court of A.P., at Amaravati(OUT)
3. One CC to Smt G. Poorna Sri, Advocate(OPUC)
4. One spare copy.

TKK

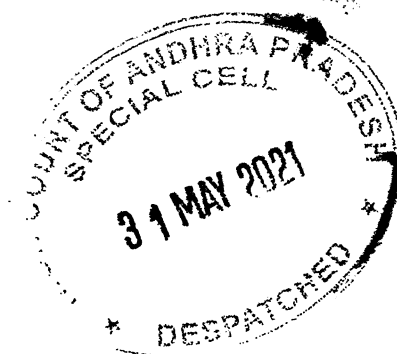
HIGH COURT

LK.J

DT.27-05-2021.

ANTICIPATORY
BAIL ORDER

CRL.P.No. 3046 of 2021



RELEASE THE PETITIONER
ON BAIL IN THE EVENT OF
HIS ARREST
(CRIMINAL PETITION IS ALLOWED)