

THE HON'BLE SMT. JUSTICE KIRANMAYEE MANDAVA

CRIMINAL PETITION No. 3802 of 2024

ORDER:

1) The petitioners, who are arrayed as Accused No. 1 and 2 in Crime No.53 of 2024 of Kurnool II Town Police Station, Kurnool District, preferred the present application under Section 438 of the Code of Criminal Procedure, 1973 [**Cr.P.C.**] seeking release in the event of their arrest in connection with the above crime registered for the offence punishable under Section 5 of the Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999, Section 420 of Indian Penal Code and Section 66-D of the Information Technology Act, 2000-2008.

2) The facts of the case are :

As per the police report of the defacto complainant, her friend one Smt. Padmavathi, had introduced her to the petitioners herein and other accused persons who are A3, A4, and A5 and that they have induced her to invest in an online trading Company viz., **SA Trading Company**. And that accordingly, they have explained about the schemes and investments and thereafter using the ID of her friend Smt. Padmavathi, Naveen (A3) initially made her to invest a sum of Rs.50,000/-. Thereafter she was made to further investments, and

that in all she was induced to invest Rs.4,87,000/- and in consideration of the said investments she states that she could not get anything in return. On the basis of the said report, a case in Crime No. 53 of 2024 was registered for the offences u/s. 5 of Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999, and se4c. 420 IPC and Sec.66D of IT Act.

3) Section 5 of the Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999, reads as follows:

*“5. Penalty for default - Where any financial establishment defaults in the return of the deposit either in cash or kind or defaults in the payment of interest on the deposit as agreed upon, every person responsible for the management of the affairs of the financial establishment including the promoter, Manager or Member of the financial establishment shall be punished with imprisonment for a term which may extend to ten years and with fine which may extend to rupees one lakh and such financial establishment shall also be liable for fine which may extend to rupees five lakh.”*

4) As noted from the provisions of the APPDFE Act, 1999, the liability for punishment under the provisions of Section 5 of the Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999, would be on the promoter of the said establishment or

Manager or Member of the said financial establishment for the default committed by the financial establishment in payment of interest or deposit that was agreed upon. The learned counsel for the petitioner Sri Sasanka Bhuvanagiri contends that ingredients of the offence u/s.5 of APPDFE Act, have not been made out as seen from the contents of the Complaint and so also the remaining offences under Section 420 of Indian Penal Code and Section 66-D of the Information Technology Act, 2000-2008.

5) *Prima facie*, as seen from the allegations in the Complaint it has not been stated by the defacto Complainant if the petitioners are responsible for the affairs of M/s.SA Trading Company, to attract the penal consequences as mentioned under Sec.5 of Sec.5 of APPDEF Act. The contents of the Complaint are to be examined and tested in the investigation.

6) As regards the other offences under Section 420 of Indian Penal Code and Section 66-D of the Information Technology Act, 2000-2008, are concerned, the minimum punishment for the said offences is less than seven [07] years.

7) Though the application filed by the petitioners is for grant of anticipatory bail, in the circumstances of the case, without touching the merits of the case the criminal petition is disposed of directing the

police to scrupulously follow the procedure laid down under Section 41-A of Code of Criminal Procedure.

8) It is made clear that the observations above made are only for the purpose of deciding the present petition. Accordingly, the Criminal Petition is disposed of.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

---

**JUSTICE KIRANMAYEE MANDAVA**

Dt: 06.06.2024  
SM/EHA

**THE HON'BLE SMT. JUSTICE KIRANMAYEE MANDAVA**

**CRIMINAL PETITION No. 3802 of 2024**

Date: 06.06.2024

SM