

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

CRIMINAL PETITION No.5672 OF 2022

ORDER:

This petition under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed to enlarge the petitioner on bail in the event of his arrest.

2. The petitioner is accused in Crime No.212 of 2021 of Parawada Police Station, Visakhapatnam District.

3. A case under Sections 403 and 408 read with 34 of the Indian Penal Code, 1860 (for short "I.P.C.") was registered against the petitioner in the above crime.

4. Heard Sri P.Nanilu Naidu, learned counsel for the petitioner and learned Special Assistant Public Prosecutor for respondent.

5. Learned counsel for the petitioner has contended that initially, the name of the petitioner is not found in the F.I.R and subsequently, basing on the confession statement of A-4 and A-5, the petitioner's name was mentioned and omnibus allegations are made against the petitioner and basing on the same, the prosecution is trying to arrest the petitioner. He further contends that the penal provisions Sections 403 and 408 IPC does not attract to the facts of the present case, and they are punishable by imprisonment of less than seven years, as such, the petitioner is entitled for Section 41-A Cr.P.C., procedure and limited the relief to that extent.

6. On the other hand, learned Special Assistant Public Prosecutor has contended that the alleged charges are punishable for less than

seven years and more so, the petitioner is involved in another crime for the very same offence and prayed for dismissal of pre-arrest bail.

7. Taking into consideration the submissions made by both the counsel and because the penal provisions are punishable by imprisonment of less than seven years, this court is inclined to give a direction to follow Section 41-A Cr.P.C., procedure.

Therefore, this Criminal Petition is disposed of with a direction to the Investigating Officer to follow the procedure contemplated under Section 41-A of Cr.P.C and the guidelines prescribed by the Honourable Apex Court in ***Arnesh Kumar v. State of Bihar and another***¹ case against the petitioners in the above crime.

As a sequel, the Miscellaneous Petitions, if any, pending shall stand closed.

4th August, 2022

Rmn

JUSTICE RAVI CHEEMALAPATI

¹ (2014) 8 SCC 273

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DISPOSED OF

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Date: 04.08.2022

Rmn