THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Criminal Petition No.1281 of 2023

ORDER:

This Criminal Petition is filed under Section 438 CrPC seeking anticipatory bail to the petitioner/A13 in the event of his arrest in Crime No.167 of 2021 of Vetapalem Police Station, Prakasam District, registered for the offences punishable under Sections 420, 409 r/w 34 IPC.

2. Heard learned counsel for the petitioner/A13 and the learned Assistant Public Prosecutor representing the respondent/State.

3. Learned counsel for the petitioner submitted that a false case has been foisted and that the petitioner is only Paid Secretary and collected deposits even as per the allegations, and therefore, he has no role in taking any decision of the affairs of the 'Vetapalem Co-operative Society Limited ('Society'). He further submitted that the Society does not fall within the definition of 'Bank' nor is it an agent. In this regard, he referred the Press Release, dated 22.11.2021, issued by the Reserve Bank of India. Therefore, the alleged offence does not fall under the purview of Section 409 IPC, and therefore, the petitioner may be granted anticipatory bail since Section 420 IPC can be dealt with under Section 41-A CrPC. He further submitted that the alleged offence does not fall within other provisions of law, i.e., Section 5 of the Andhra Pradesh Protection of

Depositors of Financial Establishments Act, 1999, or Section 22 read with Section 4 of the Banning of Unregulated Deposit Schemes Act, 2019 insofar as the allegations against the present petitioner are concerned. In this regard, he argued that the definition of unregulated deposit scheme does not cover the Society by virtue of item at Sl.No.4 of the schedule I annexed to Act 2019 wherein it excludes any scheme or an arrangement made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 or a society being a society registered or deemed to be registered under any law relating to cooperative societies for the time being in force in any State or Union Territory. It is also submitted by him that insofar as the A.P Protection of Depositors of Financial Establishments Act, 1999 is concerned, the Society is not governed by the said Act in view of the definition of 'Financial Establishment' shall expressly exclude a corporation or a co-operative society owned or controlled by any State Government or the Central Government or a banking company as defined under clause (c) of Section 5 of the Banking Regulation Act, 1949. In this regard, he submitted that the Society is under the control of the Central Government as the Registrar concerned has control over the affairs of the Society, and thus, no case can be made out under this Act as well. He further submitted that the Society itself has created a mechanism for dealing with any irregularities, and therefore, a show-cause notice is contemplated therein which enables to give reply, but no such step has been taken in this matter.

4. Learned Assistant Public Prosecutor opposed the petition and submitted that there is huge financial fraud committed and all the provisions of law cited were violated and that it is not a fit case to grant anticipatory bail.

5. Perused the record.

6. At this juncture, a detailed enquiry as to whether the offences as alleged do not come under the provisions of law as per the arguments of the learned counsel for the petitioner, cannot be made. *Prima facie* accusations made against the petitioner are well founded. The investigation is still pending. Therefore, the petitioner is not entitled to grant of anticipatory bail.

7. Accordingly, the Criminal Petition is dismissed.

Pending miscellaneous petitions, if any, shall stand closed.

B.S.BHANUMATHI, J

06.03.2023
RAR