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

<u>Criminal Petition No.345 of 2023</u>

<u>ORDER</u>:

This Criminal Petition is filed under Section 438 CrPC seeking anticipatory bail to the petitioner/A6 (G.V.Jeevanandam) suspecting in the event of his arrest in Crime No.329 of 2022 of Madanapalle II Town P.S., Madanapalle Mandal, Annamayya District, registered for the offences punishable under Sections 120-B, 166, 170, 119, 467, 468, 471, 406, 409, 420 read with 34 IPC.

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

3. The case of the prosecution is that the accused Nos.1 to 3 were working as Sub Treasury Officers, at Madanapalle, Thamballapalle, Piler respectively at the time of commission of the offences, used the services of M/s. YSR & Co., a tax consultancy firm, and filed Form-24 G with incorrect data by colluding with A4 & A5 who are the partners of the firm and took the assistance of the petitioner/A6, a Senior Accountant in STO, Punganur, for wrongful gain through claim of fraudulent income tax refunds by using AIN/PAN/TAN, digital signatures to claim bogus refunds and caused revenue loss to the government of India estimated at Rs.3,47,00,000/-.

4. Learned counsel for the petitioner submitted that the petitioner is only an employee in the office and has no control over the process and it is only the STO who has control over the process. He further submitted that the accused 1 to 3 might have filed Form 24 G with incorrect data by colluding with A4 and A5 and the petitioner has nothing to do with the commission of the offence, but he is being repeatedly called to the police station though his name is not mentioned in the FIR. He further submitted that the petitioner is a physically handicapped person of about 50% disability and moreover, he is also suspended from service and therefore, there is no possibility for him to tamper with the evidence or meddle with the process of investigation.

5. Learned Assistant Public Prosecutor filed a detailed counter showing the nexus of the petitioner to the commission of the offence.

6. The brief averments of the counter are:-

A-1 is the Sub Treasury Officer (STO), Madanapalli, A2 is the STO, Tamballapalli, A3 is the STO, Piler, A4 is the Tax Consultant running YSR & Co Tax Consultancy Services, A5 is the wife of A4 and Tax Consultant and A6 is the Senior Accountant at the office of the STO, Punganur. As per the report lodged by the Income Tax

Officer, the preliminary enquiry revealed that A1 to A3 who are working as STOs in their respective places are responsible for filing monthly Form-24G statements which are used for crediting the tax deductions into the Central Government account. In this process, they used the services of a tax consultancy where A4 to A5 are partners of the Firm. A1 to A3 in collusion with A4 & A5 filed wrong Form-24G with incorrect data and with wrong TAN numbers and availed bogus income tax refunds from the Government, thereby, causing loss to the government exchequer to a tune of Rs.3,47,00,000/-. After registration of the FIR, the Income Tax Department conducted its internal enquiry and submitted detailed enquiry report, dated 26.01.2023, stating that 57 fraudulent G-Oltas transfer vouchers have been analyzed. The points analyzed during the internal enquiry are as follows:

(a) Apart from actual TDS data, some bogus entries were made in the form-24G statements filed allotting TDS to various TANs. In many cases, the bogus entry value is even more than the aggregate of the actual TDS amounts of all the DDOs under the AIN of the month.

(b) Some are genuine TANs pertaining to STOs and DDOs. Some are bogus TANs like VPNS2258OF (STO, Tamballapalle), VPNS22579E (STO, Madanapalle), VPNS22582A (STO, Piler), VPNS22581G (STO, Vayalpad). Even one non-government TAN

(VPNK03169F) in the name of 'Kisna Associates', Madanapalle was used to allot bogus TDS amounts.

(c) Wrong DDO names were mentioned against the TANs in Form-24G statements.

(d) The TANs not belonging to the jurisdiction of the AIN holder were also used in Form-24 statements.

(e) Some of the fraudulent G-Oltas transfer vouchers are fully consumed. Some are partially consumed and some are not yet consumed.

7. The specific role played by each accused in committing the offence is detailed in the counter. It is further stated in the counter that the investigation is at premature stage and further, there is necessity to examine the actual culprits and also to collect the documentary evidence to unearth the truth and to find out the other culprits involved in the crime and the conspiracy behind the crime. The petitioner, being a Senior Assistant, has colluded with the government officials and facilitated in getting the bogus refunds. Hence, the petition is liable to be dismissed.

8. A perusal of the record shows that *prima facie* well founded accusation is found against the petitioner as well. While considering the petition for grant of anticipatory bail, not only *prima facie* case, but the gravity of the offence should also be taken into account. In cases of economic offences involving public money, lenient approach cannot be adopted. On both counts, the petitioner is not entitled to anticipatory bail.

9. Accordingly, the Criminal Petition is dismissed.

Pending miscellaneous applications, if any, shall stand closed.

B.S.BHANUMATHI, J

27.03.2023
RAR