

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.15992 of 2014

ORDER:

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The petitioner, who is A1, filed the present application under Section 438 of the Code of the Criminal Procedure (Cr.P.C.), seeking release in the event of his arrest in connection with Crime No.171 of 2014 of Biccavole Police Station, East Godavari District, registered for the offences punishable under Sections 420 and 406 of IPC.

The case of the prosecution is that the informant is owning M/s. Vijaya Durga godown in Kanedu Village, hamlet of Balabhadrapuram Village. The said godown was leased out to Food Corporation of India (F.C.I.). It is stated that one Sri Mada Mohan (petitioner), S/o.Mada Satyanarayana who was working as Handling and Transport Contractor to the F.C.I. and Railways, entered into Memorandum of Understanding (MoU) with the informant and was taking care of the said godown. It is alleged that as per the said MoU, the petitioner is maintaining the said godown and doing rice handling transport. On 27.11.2014, the officers from Hyderabad, telephoned the informant stating that 1900 bags of rice, which were sent to Hyderabad, were replaced with broken rice and also informed that the labels pasted on the said bags were also changed. Immediately, the informant sent his son to Hyderabad to verify the said stock, which was imported by F.C.I. Officers. Subsequently, the son of the informant noticed that broken rice was mixed in the 1900 bags and the labels were also changed. On 29.11.2014 at 11.00 a.m., the informant went to his godown at Kanedu and noticed that labels were changed on some bags and in some bags rice was mixed with broken rice. His enquiries revealed that the petitioner herein has stolen some bags with some *malafide* intention. Basing on these allegations, the above case came to be registered.

Heard learned counsel for the petitioner and learned Public Prosecutor appearing for the respondent-State and perused the records.

Learned counsel for the petitioner submits that even accepting the allegations in the report to be true, no offence is made out against the petitioner.

According to him, the allegations made against the petitioner are invented for the purpose of this case and he further submits that the Handling & Transport contract of the petitioner ended by 15.11.2014.

Sri Sai Kumar, learned counsel who appeared on behalf of the informant, opposed the application contending that the petitioner is responsible for the alleged misdeed.

As seen from the record, the petitioner entered into a MOU agreement on 01.07.2012 with the informant. As per the understanding, the accused agreed to pay Rs.2.50 ps. to the informant for storing paddy in his godown. Secondly, the labour charges and other things have to be borne by the accused alone, apart from godown maintenance, license fees and other clarifications. The order rejecting bail would disclose that if there was any deficit or damage to the stock, the accused is responsible for the same. Having regard to the said circumstances, it cannot be said that the petitioner is innocent of the offences alleged. Hence, the request of the petitioner cannot be considered.

However, the petitioner, if so advised, shall appear before the concerned Court and move an application for bail after giving notice to the Public Prosecutor, which shall be dealt with on merits, in accordance with law, on the same day or at least by next day.

Accordingly, the criminal petition is disposed of.

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

JUSTICE C. PRAVEEN KUMAR

31.12.2014
vhh