

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.2883 of 2015

ORDER:

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The petitioner, who is A-1, 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 Cr.No.218 of 2004 of Mailardevpally Police Station registered for the offences punishable under Sections 447, 427, 420, 468, 471 r/w.34 IPC.

The case of the prosecution is that on 09-04-2014 at 12 noon Sanjay Shastri, president of Shastripuram Co-operative Housing Society, Mailardevpally, Rajendranagar Mandal lodged a report stating that the said society registered with registration No.T.B.C.9 is owner of plot No.422 admeasuring 302.5 square yards in survey No.134/2 of Meer Sagar Hamlet of Mailardevpally Village. The said plot was not sold to any person from the society. However, A-7 and A-9 conspired together with a view to grab the plot, created fake documents and plot No.422 was grabbed by A-7 claiming himself to be the owner of the plot and later executed GPA in favour of Md.Imranuddin Khan (A-8) who inturn executed a sale deed in favour of A-9 on the basis of fake and fabricated documents. Since the entire transaction is based on fake and fabricated documents, the above case came to be registered. While the investigation was in progress, A-2 was apprehended and brought him to the police station, wherein he is alleged to have made a confession, before LW.6 and LW.8 about the involvement of A-1, A-3 to A-13 in the offence. The seizure report placed on record would show that A-1 to

A-3 with a malafide intention to grab the property met A-4 to A-6 at Mannan Associates and created fabricated document No.19852 of 1982 by giving an amount of Rs.30,000/-to A-4 to A-6. Later A-1 to A-3 created the document in the name of A-7, who in turn sold it to A-8 basing on the fake document.

Learned counsel for the petitioner mainly submits that except the confession of the co-accused, there is no other material connecting him with the crime.

Learned Public Prosecutor opposed the application contending that the petitioner is king-pin of the entire transaction and it is not a fit case for grant of

anticipatory bail, since the investigation is still pending.

A perusal of the averments in the report would show that A-2 is alleged to have made confession implicating not only himself in the crime but also the other accused, who got the fabricated and fake documents on receipt of cash of Rs.30,000/-. The issue as to whether confession can be looked into while dealing with application for bail came up for consideration in Court in ***State of Andhra Pradesh V. Kollam Gangi Reddy***. Wherein this Court held as under:

“The Apex Court in ***State though C.B.I. V. Amarmani Tripathy*** categorically laid down that the confession of co-accused can also be a basis for holding *prima facie* accusation against the accused for negating bail in rejecting the contention contra.”

Since the allegations in the remand report *prima facie* discloses the involvement of the petitioner and as the case is still at the stage of investigation, I am not inclined to grant anticipatory bail in a case of this nature.

Accordingly, the Criminal Petition is dismissed. It is always left open to the petitioner to surrender before concerned Court and seek bail which shall be dealt with in accordance with law.

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

JUSTICE C. PRAVEEN KUMAR

08-04-2015

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