

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 1897 of 2015

ORDER:

The petitioner, who is accused No.1 in Crime No.31 of 2015 of Wadapalli Police Station, Nalgonda District, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime registered for the offences punishable under Sections 409, 418 and 420 IPC.

The allegations in the report are as under:

The State Government has launched a program under the name and style of "Indira Jala Prabha" to provide irrigation facilities to the SC/ST and small/marginal farmers by way of digging bore wells and open wells, and providing infrastructure in the selected blocks in Nalgonda District. For the said programme the District Collector would be the District Program Co-ordinator being assisted by Project Director, DWMA (District Water Management Agency). The above scheme is divided into nine clusters for effective implementation of the programme. Each cluster would be headed by Assistant Project Director being assisted by Field Assistant, Technical Assistant, Cluster Technical Assistant, Engineering Consultant and Geologist. Initially the bore well users group (BUG) would be formed with not less than two farmers and with area not less than five acres extending upto ten acres. After formation of Bore well Users Group, the Geologist would be directed to conduct survey and submit feasibility report, basing on which estimates would be generated. The Assistant Project Director will accord technical sanction and forward the same to District Collector, Nalgonda for administrative sanction. Certain complaints came to be received against the execution of the work in Miryalaga Cluster at Huzurnagar Mandal for implementation of the scheme. The Commissioner, R.D. Hyderabad ordered enquiry by the Joint Commissioner, Technical Officers and Chief Quality Control Officer, who inspected the works and submitted a detailed report against the petitioner herein, who is an Assistant Director, Agriculture Department working as Assistant Project Director, Miryalguda Culster on deputation. He is alleged to have committed grave irregularities, fraud and cheating against to the norms of scheme thereby causing loss to an

extent of Rs.2,33,18,835.00. The present crime relates to irregularities in Balaji Thanda, Kondrapole, Dilawarpur and Kallepally of Damercherla Mandal, where loss to an extent of Rs.54,93,230/- sustained by the government due to irregularities committed by the petitioner and others.

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

The learned counsel for the petitioner mainly submits that the petitioner is innocent of the offences alleged against him and even accepting the allegations in report to be true no offence is made out against him. He further submits that the petitioner is only an Assistant Project Director and his role is only to accord technical sanction and forward the same to the District Collector for administrative sanction, in which there is no scope for him to misappropriate or misuse the funds. He submits that the Assistant Project Director receives the requirements with Technical inputs from the concerned Geologists and Technical Assistants. The technical inputs so received are cross checked by the concerned cluster Engineer before generating the estimates. Then only, it would be placed before the petitioner for according technical approval. Due to heavy work he might not have verified each and every work before according technical approval. According to him, there was negligence on his part and the same cannot be said to have been done with an intention to cheat the Government.

Learned Public Prosecutor opposed the application contending that the petitioner is a kingpin of the entire transaction and at his instance the entire work is being carried out. He submits that in view of the large scale fraud the petitioner is not entitled for any relief.

A perusal of the C.D. file which has been placed before the Court would show that the State Government has launched a program under the name and style as "Indira Jala Prabha" to provide irrigation facilities to SC/ST and small/marginal farmers by way of digging bore wells, open wells and providing infrastructure in the selected blocks in Nalgonda District. The program was divided into nine clusters for effective implementation. The petitioner is the Assistant Project Director pertaining to Miryalaguda Cluster at Huzurnagar Mandal. Number of complaints came to be received with regard to execution of

the work more particularly in Miryalaguda Cluster at Huzurnagar Mandal. Commissioner, R.D. Hyderabad, ordered enquiry to be conducted by the Joint Commissioner, Technical Officers and chief Quality Control Officer, who after inspection of the works submitted a detailed report against the petitioner herein. On 02.02.2015 the Commissioner, Agriculture Department, held an enquiry against the petitioner in accordance with the procedure laid down in Rule 10 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991. Articles of charges framed against the petitioner herein show that the petitioner was involved major irregularities during his tenure as Assistant Project Director, thereby causing huge loss to the Government. The irregularities alleged are:

- i) Technical sanctions were given to old open wells
- ii) He procured pump sets and payments made and installed even though enterprisation not done to the bore wells.
- iii) The pump sets set to have been supplied as per record which were not physically not available at site.
- iv) He failed to supervise the provisions of the WALTA act in several blocks.
- v) He failed to observe the measurements recorded by the TAs which were said to have been recorded by Cluster TAs
- vi) He failed to supervise in maintaining relevant records properly pertaining to the said works at ACC.
- vii) He made payments to material suppliers without following guidelines issued by the CRD from time to time.
- viii) He with a malafide intention entrusted various works to the very few material supplier/contractors especially excavation and RR Masonary works of open wells and Bore wells recharge structures.
- ix) He formed BUGs on paper without disclosing the objective and benefits of the scheme to the BUG members which led benefit to the influenced BUG members only.

Though the petitioner gave an explanation to the articles of charge stating that he is not involved in the offences but the averments in the First Information Report and the preliminary investigation done by the Joint Commissioner *prima facie* show the involvement of the petitioner in the commission of offence leading to huge financial loss to the government and it was he who was spear heading in implementation of the project. In view of the above, I am not inclined to grant anticipatory bail to the petitioner. Learned Public Prosecutor on

instructions submits that the petitioner is placed under suspension, but the same is denied by the learned counsel for the petitioner. However, having regard to the circumstances of the case, the petitioner if so advised shall appear before the concerned Court and move an application for grant of bail before appropriate Court after giving notice to the Public Prosecutor, in which event the same shall be dealt with on merits in accordance with law either on the same day or at the earliest.

Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

25.03.2015

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