

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No.2232 OF 2015

ORDER:

The petitioner, who is accused No.2, filed this Criminal Petition under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.474 of 2014 of Malakpet Police Station, Hyderabad, registered for the offences punishable under Sections 406 and 420 IPC.

The case of the prosecution is that the accused are alleged to have collected a sum of Rs.5.00 lakhs from the informant promising to provide government job to him. In spite of repeated demands, the petitioner is alleged to have issued fake appointment orders. When questioned the accused is alleged to have issued cheques, which when presented were returned. 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.

Learned counsel for the petitioner submits that having initiated the proceedings under Rs.138 of the Negotiable Instruments Act, 1881, the question of again prosecuting the petitioners from the same offences amounts to double jeopardy. He further submits that the alleged transaction took place nearly 2 ½ years and that there is no explanation for delay in lodging the report.

Learned Public prosecutor opposed the application.

A reading of the allegations in the report discloses that a sum of Rs.5.00 lakhs was collected by both the accused and when demanded they are alleged to have issued fake appointment orders. The present transaction of payment of money is said to have been took place in the year 2012 and thereafter they started evading the payment. Ultimately on 24.09.2014 the present report came to be lodged. Therefore, the argument of the learned counsel for the petitioner that the informant filed the report two and half years after the incident cannot be

accepted. Further no material is placed before the Court to show that a complaint under Section 138 of the Negotiable Instruments Act, 1881 has been filed. Having regard to the allegations made, I am not inclined to grant anticipatory bail to the petitioner. However, the petitioner if so advised shall surrender 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 at the earliest.

Accordingly, the Criminal Petition is dismissed.

C. PRAVEEN KUMAR, J

23.03.2015

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