

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 4024 of 2015

ORDER:

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The petitioner, who is accused No.2 filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.225 of 2014 of Central Crime Station, Hyderabad, registered for the offences punishable under Sections 420, 406, 409, 120-B r/w.34 IPC

The case of the prosecution is as under:

The Registrar, Co-operative Societies, Hyderabad ordered an enquiry vide proceedings Rc.No.11864/08/HR4 dated 05.09.2013 under Section 29 (2) of the Act into the affairs of the Andhra Pradesh High Court Employees Mutually Aided Co-operative Housing Society Limited, Hyderabad (for short 'the Society'). Pursuant to the said order, the Enquiry Officer conducted an enquiry and submitted a detailed report dated 01.01.2014 to the Registrar of Mutually Aided Co-operative Society, Hyderabad. The contents of the enquiry report which is the basis for registering the above crime and which also forms part of the First Information Report, are as under:

The following are the irregularities alleged to have been committed by the M.C.Members of the Society as per the report of the Enquiry Officer.

1. "Legally P.Venkat Reddy (accused No.1) is not a member of the Society.
2. Technically the above members i.e. Sri P.Vinod, Sri N.Satish Varma, Sri G.Anil Kumar, Sri D.Santhosh Kumar, Sri M.V.Subbaiah and Smt. Manikyambha are still members of the Society.
3. Heavy expenditure items were approved in the last hour.
4. In the board meeting of 18.02.2013, the signature of Sri K.V.S.Murthy, Treasurer was forged and the same was confirmed by Ex.President N.Chandrasekhar.
5. In total basing on the statements given by the contractor Sri P.Veeraiah and Ex.President N.Chandrasekhar (accused No.2) and on verification of the site, nearly 2.5 Crores of amount has been misappropriated in civil works only. P.Veeraiah has submitted 28 audio files to the enquiry officer which was recorded by him secretly in his mobile regarding the money transactions between P.Venkat Reddy and himself. He also personally appeared before the Inquiry officer and his deposition was recorded on 30.12.2013 along with his colleagues Shivareddy and

others. Audio phone recording of N.Chandrasekhar, Ex.President of the Society recorded by the Inquiry Officer on 27.12.2013 at 7.36 am also reveals the bare facts of misappropriation of funds in land development.

6. The readmission of membership of P.Venkat Reddy is ratified again and again which is a clear violation of byelaws and Act.
7. The 8 members who were admitted in the year 2010, Sri N.Bhavani Shankar and others membership is not valid.
8. The G.B. is taking the shelter of "Ignorance" for the mistakes the Society has committed like for example no proper maintenance of registers, issue of share certificates etc. Even after so many days of ratifying the agendas, not even a single step has been taken in fulfilling the items covered in the GBs conducted till date.
9. The AGB conducted on 23.09.2012 passed a very peculiar resolution in Agenda 9 (i) © which says that "it is unanimously resolved to authorize the Secretary to initiate stringent action against few of the Society members for their selfish gains and ulterior motives always creating hurdles and hindering the developmental activity of the Society in achieving the target of allotting the plots to the members and issue notices to the said members and despite receipt of the notices also the said members have not changed their attitude, the Secretary is further authorized to expel the said members from the Society without ratification of the General Body meeting.

This resolution implies that Secretary is the General Body and General Body is Secretary. He can act according to his whims and fancies and can remove any member whom he identifies to be removed. This resolution of the General Body without application of mind has upgraded the Secretary as a Director. This is noticed by the Inquiry officer during my interaction with the past directors and members of the Society. The perfect example of Secretary's monopoly is noticed in the expulsion of N.Chandrasekhar, the then president which is discussed below.

10. There is no address to the Society. The entire Inquiry is conducted in Employees Service Association hall of the High Court.
11. The files and information as required by the Inquiry Officer were given in the chamber of P.Venkat Reddy and these are not in proper Society.
12. There is no proper maintenance of registers at the Society.
13. A list of members from all cadres of the Society who have availed House Building Allowance which is certified by Section officer of the High Court is obtained by the inquiry Officer.
14. In the legal opinion given by G.P. for co-operation, Sri N.Jayasurya, it was specifically mentioned that General Body cannot condone or ratify the lapses which ultimately has the effect of nullifying the findings of the Enquiry Report. It cannot ratify all decisions which are not specifically mentioned in the byelaws of the Society.

15. Lot of money has been misutilised by P.Venkat Reddy and the other members of the Board were silent on activities.
16. The members and directors who resisted P.Venkat Reddy were expelled from the Society.
17. An amount of Rs.71,07,624/- is paid from 01.04.2012 to 30.08.2012 for engaging advocates. This has been ratified in GB resolution dated 23.09.2012 Agenda No.5 Page No.17 of the Minutes of G.B. No receipts were submitted to the Inquiry Officer. Since there are no receipts, the amount shall be recovered from the ex-managing committee.
18. On 23.03.2013 AGB meeting, the advocate fee of RS.4,80,000/- has been ratified. In this meeting, an amount of Rs.42,500/- has been spent towards the transportation and other expenses Rs.2,31,000/- without any receipts and shall be recovered from the concerned managing committee and also it is against the orders of W.P.Nos.29232/2012 dated 18.09.2012. These amounts shall be recovered from the concerned management.
19. Even in the subcontract which has been given to the APSEB contractor G.Nagendra Pradas, he was paid an amount of Rs.4,50,000/- through cheque No.200452 dated 26.12.2011 fraud is made. The Enquiry officer's staff has made call to G.Nagendra Prasad and recorded the call in the mobile where it was inquired about the specifications as mentioned in the quotation submitted to the Society. The contractor himself has said that the specification can be met in Rs.2,40,000/-. The excess amounts paid i.e. Rs.2,10,000/-.
20. The list of directors given to the Inquiry Officer of the board present as on date of ordering of Inquiry is as below:

P.Venkat Reddy : President (Asst. Registrar)

N.Ramesh Kumar : Director (Assistant)

B.Mallaiah : Director (Attender)

P.Narsimhulu : Director (Attender)

N.Muralidhar : Director (Driver)

Mohd. Mahaboob Sharif : Director (DSO)

K.V.S.Murthy : Director (Section Officer retired)

Mohd. Shamsheer Ali : Director (Attender)

G.Devender : Director (Assistant)

The Board has more attenders and assistants than officers. The Class IV employees with their low education qualifications are easily targeted by the intelligent Ex.President P.Venkat Reddy. The above Ex.Directors N.Ramesh Kumar, B.Mallaiah, P.Narsimhulu, Shamsheer Ali are all co-opted members. They

are not elected by the members of the Society. Ex.President N.Chandrasekhar and D.Yadaiah (Ex.Vice President) and D.Narsing Rao (Ex.Director) are also responsible for the management of funds of the Society.”

Basing on these allegations the above case came to be registered.

Learned counsel for the petitioner mainly submits that even accepting the allegations in the entire report to be true, no offence is made out against the petitioner. According to him, the principal accused who is alleged to have taken away the cheque book from the petitioner and mis-used the same is already released on bail. Hence seeks grant of anticipatory bail.

Learned counsel for the informant who got impleaded himself opposed the application contending that the money is transferred from the account of petitioner to the account of A-1 and his wife. As such it cannot be said that he is innocent of the offence.

Having regard to the above, the counsel for the petitioner seeks direction to the trial Court to dispose of the bail application if any filed by the petitioner on the same day by taking into consideration the fact that the other accused in the above case were already granted bail.

In view of the circumstances stated above, the petitioner, if so, advised shall surrender before the concerned Court and move an application for bail after giving notice to the Public Prosecutor, in which event, the Court concerned shall deal with the same in accordance with law on the same day. Accordingly, the Criminal Petition is disposed of.

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JUSTICE C. PRAVEEN KUMAR

01-05-2015

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