

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 56 of 2015

ORDER:

The petitioner, who is accused No.1, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.348 of 2014 of Jammikunta Police Station, Karimnagar District, registered for the offences punishable under Sections 420 and 506 IPC.

The case of the prosecution is that the informant is resident of Korapalli village and his elder son could not secure good rank in EAMCET and did not get MBBS seat. On seeing a news item published in Eenadu Telugu Daily Newspaper, the informant contacted the petitioner over phone, he asked him to come to his house and promised to provide a seat to the son of the informant. The informant, along with his brother-in-law, went to the office of the informant at Qutubullapur, where the petitioner is alleged to have stated that he was having contacts with various medical colleges at Maharastra, Tamilnadu and other states and promised to provide seat to the son of the informant and demanded Rs.24,00,000/-. On 20.05.2013 the petitioner came to Jammikunta and believing the words of the petitioner, the informant paid a sum of Rs.5,00,000/- in the presence of P.Kumaraswamy and B.Rajendar. On 30.05.2013, the petitioner telephoned to the informant stating that his son secured a seat at IMRS College, Salara District of Maharastra. On 31.05.2013, the petitioner came to Jammikunta in a car, introduced one Mr.Balachandra Suresh as Director of the said college and one Mr.Nampally Chandru and Yedla Laxman as

partners and insisted the informant to pay the balance amount. Accordingly, the informant paid Rs.12,00,000/- cash and for the remaining amount issued cheques at Rs.1.00 lakh each drawn on ICICI Bank, Korapalli branch. In all, the petitioner is alleged to have collected Rs.19.00 lakhs and after few days he telephoned to the informant that his son could not get the seat and promised to get the seat for the next year and dodged the matter on one pretext or the other. On 21.11.2014 the informant along with his friends went to the petitioner and demanded to return the amount, the petitioner is alleged to have threatened them with dire consequences. 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 there is abnormal delay in lodging the report on 24.11.2014 as the petitioner is alleged to have collected a sum of Rs.5.00 lakhs and further sum of Rs.12.00 lakhs from the informant on 20.05.2013 and 30.05.2013 respectively. He further submits that it is not specifically mentioned in the report that where and to whom the amount was given by the informant. He also submits that there is no need to go into the factual aspects for grant of anticipatory bail and in support of his contention he relied on the judgments of the Apex Court in *Shobhan Singh Khanka vs. State of Jharkhand*^[1] and *Sidharam Satlingappa Mhetre v. State of Maharashtra and others*^[2]. He also submits that the petitioner is having a fixed abode, he will not tamper with the evidence and will co-operate with the investigating agency and seeks

anticipatory bail.

On the other hand, the learned Public Prosecutor opposed the application contending that the petitioner is involved in four offences of similar nature. He further submits that the petitioner himself collected the amount from the informant and if the petitioner is released on anticipatory bail he will not co-operate with the investigating agency.

A perusal of the both the judgments, the Apex Court held that while considering the claim of pre-arrest bail, the following factors have to be considered.

i) the nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested.

iii) impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very number of people.

iv) The possibility of the accused's likelihood to repeat similar or other offences.

From the record placed by the Public Prosecutor, it is clear that the petitioner was involved in four offences similar to the case on hand. The particulars of which are as under:

1. Crime No.416 of 2014 of Saroornagar Police Station, for the offences punishable under Sections 420 and 406 IPC.
2. Crime No.322 of 2013 of Musheerabad Police Station, registered for an offence punishable under Section 420 IPC.
3. Crime No.192 of 2014 of Jeedimetla Police

Station, registered for the offences punishable under Sections 416, 418 and 420 IPC.

4. Crime No.140 of 2013 registered in Maharashtra state for the offences punishable under Section 420, 468, 469 and 471 IPC.

In view of the judgments referred to above, involvement of the petitioner in four cases and since the offences alleged against the petitioner being grave and serious in nature affecting the society at large, the petitioner cannot be subjected to anticipatory bail.

Accordingly, the Criminal Petition is dismissed. However, the petitioner, if so advised, shall surrender before the appropriate Court and move an application before the Court concerned after giving prior notice to the Public Prosecutor, which shall be dealt with in accordance with law, on the same day or atleast on the next day.

C. PRAVEEN KUMAR, J

27.01.2015
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[\[1\]](#) (2012) 4 SCC 684

[\[2\]](#) (2011) 1 SCC 694