HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.1981 of 2015

ORDER:

The petitioner/accused filed the present application under Section 438 Cr.P.C., seeking release in the event of his arrest in connection with Crime No.21 of 2015 of Kolimigundla Police Station, Kurnool District, registered for the offences punishable under Sections 403, 409 and 477-A of I.P.C.

The case of the prosecution is as under

As per the instructions of the Collector and District Magistrate, Kurnool, the District Cooperative Officer (DCO), Kurnool, conducted a preliminary enquiry and noticed that an amount of Rs.19,10,000/- was misappropriated by the petitioner. The DCO further noticed that the petitioner has committed the following lapses:

1) That Sri K.Kishore Kumar, Chief Executive Officer of the society has enhanced the CKCC loans of the members without the knowledge of the members which is highly irregular.
2) That though certain members have closed their loans long back, the Chief Executive Officer of the society has raised loans from District Cooperative Central Bank Ltd., Koilakuntla Branch on their names which is highly irregular.
3) That Sri K.Kishore Kumar, Chief Executive Officer of the society has shown in the books of the society that he has issued CKCC Loans from the own funds of the society to its members without knowledge of the members. It is further noticed that there is no any resolution for issue of CKCC loans to members by the Managing Committee of the society. There is no any documentation to such loans.
4) That Sri K.Kishore Kumar, Chief Executive Officer of the society has claimed the said fake loans issued under CKCC loans from own funds from Debt waiver.
5) That the members of the society have not taken any loan from own funds of the society and as such they are not eligible for any claims under Debt waiver.
6) That claiming Bogus loans under Debt waiver by the society has affected the original Debt waiver of the

members taken loan from other financial institutions.

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.

The learned counsel for the petitioner submits that without conducting any enquiry, more particularly, an enquiry under Section 51 of the Cooperative Societies Act, the present report has been lodged. He further submits that even if an opportunity was given to the petitioner, he would have explained the circumstances of the case and proved that the allegations made against him are false. The learned Public Prosecutor opposed the criminal petition.

The learned counsel for the petitioner submits that though it is not mandatory that before initiating criminal prosecution, an enquiry under Section 51 is to be conducted or that a report for the offences alleged can be lodged only on the basis of finding in the proceedings of the Collector, but, at the same time, the learned counsel for the petitioner submits that if an opportunity is given, he will explain the circumstances and prove that the allegations made against him are false. As seen from the report, a preliminary enquiry was conducted by the officials, wherein they found that the petitioner misappropriated an amount of Rs.19,10,000/- apart from other lapses which are indicated above.

Having regard to the nature of allegations made, I am not inclined to grant anticipatory bail to the petitioner. However, the petitioner, if so advised, shall surrender before the appropriate Court and make an application for bail, after giving prior notice to the learned Public Prosecutor, in which event, the same shall be dealt with, in accordance with law, on the same day or at the earliest.

Accordingly, the criminal petition is dismissed. Miscellaneous petitions pending, if any, shall also stand closed.

C. PRAVEEN KUMAR, J

Date: 20.03.2015
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