

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.3312 OF 2015

ORDER:

Aggrieved by the order dated 06.04.2015 passed in CrI.M.P. No.795 of 2015 in Cr.No.214 of 2015 of Panjagutta Police Station, Hyderabad on the file of the III Additional Metropolitan Sessions Judge at Hyderabad, the present application is filed by the petitioners/A-1 to A-3 under Section 482 Cr.P.C. seeking modification of the conditions imposed in the above CrI.M.P.

The facts in issue are as under :

On the basis of a report given by one K.Vijay Kumar, a case in Crime No.214 of 2015 of Panjagutta Police Station, Hyderabad came to be registered against these petitioners for the offences punishable under Sections 420, 120-B and 506 read with 34 IPC. The gist of the allegations made in the report show that the informant entered into an agreement of sale dated 24.01.2009 for purchase of a flat in Sethi Towers, Rajbhavan Road, Somajiguda, Hyderabad. The agreement was entered into for a sale consideration of Rs.82,50,000/- and out of which an amount of Rs.78,00,000/- was paid by the end of 2010. It is said that the informant occupied the Flat in the year 2012 by doing all interior works with his own funds and till date the registration process is not completed. It is alleged that at the time of entering into an agreement the builder made several promises with regard to completion of project and providing common amenities, but failed to do so. The averments in the report further disclose that the builder deviated from the sanctioned plan and made construction of 12th floor over and above the 11th floor apart from making other deviations. The complainant has issued notices to the builder on 09.12.2012 and 18.08.2013, but he has not taken any steps to complete the project. Basing on these allegations the present came to be lodged against the landlord viz., Ms. Rohini Sethi and Ms. Sneha Sethi and building/GPA holder Mr.Harjinder Singh Seth.

While things stood thus, on 06.04.2015 the learned III Additional Metropolitan Sessions Judge at Hyderabad granted anticipatory bail to the petitioners on certain terms and conditons. The operative portion of the order is as under :

“In the result, this petition is allowed. Petitoenrs/A-1 to A-3 are directed to surrender before the arresting officer within 10 days. On such surrender they shall be released

on bail on execution of their personal bond for Rs.10,000/- (Rupees ten thousand only) each with two sureties for a like sum each to the satisfaction of same arresting officer. The petitioners/A-1 to A-3 are further directed to appear before investigating agency on every Monday between 10.00 a.m., and 2.00 p.m., as it suits their convenience till filing of charge sheet or until further orders which ever is earlier. The petitioners/A-1 to A-3 are further directed to surrender their passports, if any, before the concerned police.”

Challenging the same, the present application is filed.

The learned Senior Counsel Sri D.Prakash Reddy, appearing for the petitioners submits that insofar as the petitioners 1 and 2 are concerned they have resigned from the Company on 02.07.2012 itself and as such they are nothing to do with the affairs of the company. He placed on record Form 32 in support of his contention. He further submits that since the first and second petitioners are residents of New Delhi and Pune respectively it is difficult for them to attend before the investigating agency on every Monday between 10.00 a.m., and 2.00 p.m., till filing of charge sheet or until further orders which ever is earlier. He further submits that having regard to the circumstances stated above deposit of passport may not be necessary.

On the other hand, the learned Public Prosecutor opposed the same contending that though a notice under Section 41 Cr.P.C., was issued to the petitioners, they failed to appear before the agency. According to him, the petitioners are not cooperating with the investigating agency and as such necessary conditions have to be imposed so as to secure their presence as and when required by the police. Further on instructions he submits that not only the informant but number of people are aggrieved by the inaction of the petitioners in not completing the project as promised by them while collecting money.

A perusal of the material on record would show that learned III Additional Metropolitan Sessions Judge, Hyderabad granted anticipatory bail to the petitioner by directing them to surrender before the arresting officer within 10 days. On such surrender they shall be released on bail on execution of their personal bond for Rs.10,000/- (Rupees ten thousand only) each with two sureties for a like sum each to the satisfaction of same arresting officer. The petitioners/A-1 to A-3 are further directed to appear before investigating agency on every Monday between 10.00 a.m., and 2.00 p.m., as it suits their convenience till filing of charge sheet or until further orders which ever is earlier. Though the order does not disclose the reasons for grant of anticipatory bail, but it is to be presumed that basing on the documents

filed and having regard to the facts and circumstances of the case, the learned Sessions Judge must have been granted anticipatory bail to all the petitioners. Insofar as the third petitioner is concerned, the learned Senior Counsel submits that he will comply with all the terms and conditions of the order dated 06.04.2015. His grievance is only with regard to petitioners 1 and 2, who are ladies and residing at New Delhi and Pune. Insofar as reporting before the police on every Monday is concerned, the petitioners 1 and 2 being women would find it difficult to come over to Hyderabad on every Monday for reporting before the concerned Station House Officer. Hence, the condition of reporting before the investigating agency is hereby relaxed. But, however, it is made clear that they shall make themselves available to the investigating agency as and when required by the police, in default of the same, the agency shall take all the steps to cancel the anticipatory bail.

Insofar as the condition of depositing of passport is concerned, the learned Senior Counsel submits that since they have nothing to do with the Company it is not necessary to deposit the passports. But as seen from the record, these two petitioners resigned from the Company in the year 2012. But, the averments in the report disclose that the agreement of sale took place in the year 2009 and an amount of Rs.78 lakhs was paid by the end of 2010. From the above, it is clear that though they resigned in the year 2012 and the report was given in the month of March 2015, the transactions between the informant and the company i.e., M/s.Sethi Housing (India) Pvt. Ltd., formerly known as RRS Realtors Pvt. Ltd., of which the petitioners 1 and 2 are Directors, took place during the year 2009 and 2010 wherein substantial amount was paid by the end of 2010. Therefore, the argument of the learned Senior Counsel that the petitioners 1 and 2 have nothing to do with the case, cannot be accepted at this stage. Hence, the condition of depositing their passports cannot be said to be unreasonable and unjust.

Accordingly, the condition of reporting before the Investigating agency on every Monday between 10.00 a.m., and 2.00 p.m., till filing of charge sheet or until further orders which ever is earlier, is hereby relaxed insofar as the petitioners/A-1 and A-2 only and conditions imposed against the third petitioner shall remain unaltered. Insofar as the condition of depositing of passports before the concerned police shall remain undisturbed for the present. However, the petitioners are at liberty to make suitable application seeking release of passport as and when it is necessary.

The time granted for the petitioners to execute the bonds before the arresting officer is extended by two weeks from today.

With the above modification, the Criminal Petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

Date: 21.04.2015

Note : C.C. tomorrow

B/o.

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