

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13086 of 2016

ORDER:

1) The petitioner, who is accused No.1, preferred the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.275 of 2016 of Medchal Police Station, Cyberabad, registered against the petitioner and others for an offence punishable under Section 395 IPC.

2) The case of the prosecution is that on 12.07.2016 at about 10.30 p.m. while the informant after completion of his duty at Kajipalli started on his two wheeler No.TS 03 EJ 5987 in order to go to his house situated near Medchal checkpost, when he reached near checkpost Kaman, one unknown lady stopped him by showing her hand, then he stopped the vehicle and talking with her, meanwhile, accused Nos.1 to 5 are alleged to have attacked on him, robbed net cash of Rs.1500/-, Lenova K3 cell phone and pushed him down, beat him with legs, hands and sticks and fled away. Basing on these allegations the above case came to be registered.

3) Heard learned counsel for the petitioner and Public Prosecutor appearing for the respondent-State.

4) Learned counsel for the petitioner submits that the petitioner is nothing to do with the alleged offence and he was shown as accused basing on the alleged confession made by accused No.2, which is inadmissible in evidence and seeks bail.

5) Learned Public Prosecutor opposed the application.

6) A perusal of the remand report would show that accused No.2 is alleged to have made confession he along with other accused are alleged to have attacked the informant on the night of 12.07.2016 at about 10.30 p.m. and robbed cash of Rs.1500/- and Lenova K3 cell phone. It may be true that the case against the petitioner is based on confession of co-accused but the Apex Court in *State through C.B.I. V. Amarmani Tripathy*¹, held as under:

“The admissibility or otherwise of the confessional statement and the effect of the evidence already adduced by the prosecution and the merit of the evidence that may be adduced hereinafter including that of the witnesses sought to be recalled are all matters to be considered at the stage of the trial.”

7) Having regard to the nature of allegations made and taking into consideration the magnitude of the offences, I am not inclined to grant anticipatory bail to the petitioner.

8) Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

19.09.2016
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¹ AIR 2005 SC 3490

