

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13417 of 2016

ORDER:

The petitioners, who are A.1 to A.3 in crime No.22 of 2014 of Vizianagaram I Town Police Station, filed the present application under Section 438 of the Code of the Criminal Procedure (Cr.P.C.), seeking release in the event of their arrest in connection with the above crime registered for the offences punishable under Sections 417 and 420 r/w.34 of Indian Penal Code.

The case of the prosecution is that in the year 2011 the petitioners and other accused have started business in Vizianagaram under the name & style of Bommarillu Farms and Villas India Limited by introducing various schemes. Thereafter, the accused met the informant and explained their schemes and made him to believe that if he invests in their schemes, he would get more interest. Believing their words, the informant deposited Rs.2,05,500/- in different schemes in the name of himself, his wife and daughter. It is alleged that the accused failed to repay the amounts deposited by the informant even after maturity time. Hence, the present report came to be lodged.

Heard learned counsel for the petitioners as well as the learned Additional Public Prosecutor.

A perusal of the material on record would reveal that several crimes came to be registered in which some of the cases were transferred to CID. It is stated that some movable and immovable properties were also attached.

Learned counsel for the petitioners mainly submits that this Court in CrI.P.No.5584 of 2014 on 29.05.2014 granted anticipatory bail to the petitioners 1 and 3 in Crime No.18 of 2014 of Visakhapatnam III Town Police Station and directed them to surrender before the SHO concerned and on such surrender directed the SHO to release the petitioners on their executing personal bond for Rs.10,000/- each with two sureties for a likesum each and also directed the petitioners to appear before the Police Station on 1st and 15th of every month in between 10 a.m. and 5 p.m. till filing of charge sheet. In view of the said orders and having regard to the fact that the petitioners have resigned from the Company in the year 2013, he seeks grant of bail.

Learned Additional Public Prosecutor opposed the application contending that though the petitioners obtained bail in crime No.18 of 2014 vide order dated 29.05.2014 but they failed to comply with the conditions imposed therein. He further submits that the petitioners are not co-operating with the investigating agency.

As seen from the material on record, it is clear that the accused are alleged to have cheated the petitioner and other public to a tune of Rs.85 crores. It may be true that the petitioners might have resigned to their Directorship in the year 2013, but it is to be noted that the amounts were collected from the year 2010-2011 onwards. Therefore, the argument of the learned counsel for the petitioners that the petitioners are innocent of the offence cannot be accepted at this stage. Though, the counsel stressed on the order passed in CrI.P.No.5584 of 2014, but having regard to the fact that the petitioners have failed to comply with the condition imposed therein,

as reported by the learned Additional Public Prosecutor, the petitioners may not be entitled for grant of anticipatory bail, though their case stands on the same footing as in crime No.18 of 2014 in which they were granted anticipatory bail.

In view of the same and taking into consideration the facts in issue, I am not inclined to grant anticipatory bail to the petitioners. However, having regard to the fact that part of the properties are attached, the petitioners are advised to surrender before the Court below and move an appropriate application seeking bail after giving prior notice to the Public Prosecutor, in which event, the same shall be considered in accordance with law either on the same day or at the earliest.

Accordingly, the Criminal Petition is disposed of.

20.09.2016
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JUSTICE C. PRAVEEN KUMAR

