THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION NO.1563 of 2016

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.598 of 2015 of Shadnagar Police Station, Mahabubnagar District, registered for the offences punishable under Sections 120 (b), 420, 467, 468, 471, 323, 504 and 506 read with 34 IPC.

A private complaint came to be filed stating that the informant was the absolute owner of land admeasuring Ac.10.02 gts., situated in Sy.Nos. 201, 209, 210, 211, 212 and 214 o f Burgula Village, Farooqnagar Mandal, Mahabubnagar District, which was purchased by him from Bhavani Prasad Hajari vide document No.957 of 1998. It is stated that the informant went to U.S.A. on 15.07.1999 and asked the petitioner, who is his close friend, to take care of the lands. Taking advantage of the absence of the informant, the petitioner is said to have created a general power of attorney as if it is executed by the informant and got the same registered vide document No.63 of 2002 by forging the signature of the informant. The said power of attorney was attested by accused Nos.2 and 3. Thereafter, accused No.1 executed sale deed in favour of accused No.4 , who inturn executed sale deed in favour of accused No.5. On 10.11.2013 the informant came to know about the same when he came to India, but left to U.S.A. on some urgent work. After he returning back to India, a private complaint was filed and the same was referred to the police under Section 156 (3) Cr.P.C.

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

Learned counsel for the petitioner submits that though the informant was aware about the commission of offence in the year 2013, but no report was lodged till 2015 and the same is fatal to the case of the prosecution. The same is opposed by the Additional Public Prosecutor.

A perusal of the material on record would show that though the informant came to know about the commission of offence in the year 2013, but on urgent work he left India and there after came back in the year 2014. After collecting material with regard to forgery of general power of attorney which came to be registered as document No.63 of 2002, basing on which accused No.1 is said to have sold the said property to accused No.4, who in turn sold the same to accused No.5, the present report was lodged. Therefore, it cannot be said that there was delay in lodging the report. The counsel for the petitioner submits that this being a civil in nature, the petitioner deserves for grant of anticipatory bail. But it is to be noted that the Apex Court and this Court time and again held ***that the act of forgery and creation of document cannot be civil in nature.*** Having regard to the nature of allegations made and since the allegations *prima facie* constitute offences alleged, I am not inclined to grant anticipatory bail to the petitioner. However, the petitioner, if so advised, shall surrender before the Court concerned and make an application for regular bail after giving prior notice to the Public Prosecutor, in which event the same shall be dealt with in accordance with law either on the same day or at the earliest.

Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

16.02.2016
gkv