THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.14017 OF 2016

ORDER:

The petitioner, who is the sole accused, preferred the present Criminal Petition under Section 438 of the Code of Criminal Procedure, 1973, seeking release in the event of his arrest in connection with Crime No.196 of 2016 of Nellore IV Town Police Station, SPSR Nellore District, registered for the offences punishable under Sections 409 and 420 IPC.

2. The case of the prosecution is that as per the directions of the Principal District and Sessions Judge, Nellore, the Chief Administrative Officer, Principal District Court, Nellore, submitted a letter dated 28.05.2016, wherein it was stated on 16.05.2016 he received a phone call from the Branch Manager, Indian Overseas Bank, Sujatamma Colony Branch, Nellore, enquiring him as to why he sent a letter to issue Demand Draft on State Bank of India, Fathekhanpet Branch, Nellore instead of Principal District Judge, Nellore. On that, he met the Branch Manager on 18.05.2016 and on verification of the letter, he found that the said letter was not signed by him as Head Clerk and it was signed by the petitioner and sent the same to the branch for encashment. He requested the Branch Manager to cancel the said Demand Draft and issue a F.D.R in favour of Principal District Judge, Nellore. He further stated that upon verification of S.B. Account of the petitioner, it was found that huge amounts were credited to the account of the petitioner. Sri S.V.Narasimha Raju, Special Judge for

SPE and ACB Cases-cum-II Additional District and Sessions Judge, Nellore, has been appointed as Preliminary Enquiry Officer to conduct Preliminary Enquiry and the Enquiry Officer submitted his report observing that the individual has diverted the funds to his personal account deliberately and misappropriated the same. Basing on these allegations, the present crime came to be registered.

3. Learned counsel for the petitioner mainly submits that the petitioner has repaid the entire amount, which is alleged to have been misappropriated by him, by way of Demand Draft. A Xerox copy of the same is placed on record.

4. Learned Additional Public Prosecutor opposed the same contending that having regard to the nature of allegations made and as the fraud took place in the Court of the Principal District Judge, Nellore, the request of the petitioner cannot be considered.

5. A perusal of the First Information Report would show that though the petitioner claims to have repaid the amount, the same is not accepted by the authorities. Therefore, the argument of the learned counsel for the petitioner that the petitioner repaid the amount alleged to have misappropriated is incorrect. Even otherwise, it is to be noted that the petitioner, who was working in the office of the Principal District Judge at Nellore, diverted the funds to his personal account instead of crediting the same to the account of the Court.

6. Having regard to the nature of allegations made, which are grievous in nature, I am not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, the Criminal Petition is dismissed.

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JUSTICE C. PRAVEEN KUMAR

Date:30.09.2016
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