HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No.4336 of 2016

ORDER:

The petitioners, who are accused Nos.17 and 18 in Crime No.137 of 2013 of Gadwal Town Police Station, filed the present application under Sections 437 and 439 Cr.P.C. seeking enlargement on bail in the above crime, registered for an offence punishable under Section 420 IPC, Sections 3 and 5 of the Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 and Section 58 of the Reserve Bank of India Act, 1934.

The case of the prosecution as stated in the remand report is as under:

On 09.07.2013 one Smt. K.Sujatha, an agent of Akshaya Gold Firm and Villas India Limited (herein after referred to as "Company"), Gadwal Branch, lodged a report stating that she joined as agent about four years prior to the lodging of the report. The head office of the company is situated at 9/9 3rd and 4th floors, HDFC Bank upstairs, Potluri Mansion, Visakhapatnam. As per the rules and regulations of the company, the informant along with other agents enrolled several customers in the company and made them to deposit huge amount on daily, monthly and yearly basis. An amount of Rs.1.00 crore was mobilized by way of deposits. Mr. Bhogi Subramanyam was CMD of the company. When the deposit bonds got matured, the agents along with others visited the office at Gadwal Branch and were surprised to see that the branch was closed. They tried to contact the CMD on his mobile, but the said mobile was switched off. Hence, lodged the present report.

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

Learned counsel for the petitioners mainly submits that the petitioners herein have nothing to do with the offences alleged as they resigned from the company in the year 2011 itself. He submits that even otherwise all the assets of the company running into crores of rupees are seized and no prejudice would be caused to the informant if the petitioners are released on bail. He further submits that one of the petitioner, who is shown as accused No.16 in Crime No.89 of 2012 of Ongole I Town Police Station was granted anticipatory bail by the learned Sessions Judge, Ongole on 17.08.2012 itself and in view of the above, he submits that the request of the petitioners may be considered.

Learned Additional Public Prosecutor opposed the application contending that huge amount of money is involved and if the petitioners are released on bail there is every likelihood of they evading the process of law. He further submits that there is enough material on record to show that even after the resignation, the petitioners actively participated in the affairs of the company and their photographs are still shown on the brochures.

It is not in dispute that the informant along with others collected deposits for the company and got the same deposited in Gadwal Branch of the company. The petitioners herein claim to have resigned from the company in the year 2011, but one fact which is to be noted is that the company collected deposits from the depositors, right from its inception and the petitioners also played an active role for nearly three to four years in the affairs of the company. Therefore, merely because the present report came to be lodged after the resignation of the petitioners from the company does not by itself totally exculpate them from the commission of offence. As alleged in the report the company closed all their branches when the deposit bonds got matured and the company failed to return the amount to the depositors. Hence, the argument of the learned counsel for the petitioners that these petitioners, who were shown as Directors of the company, have nothing to do with the company cannot be accepted, more so, when the brochures of the company show photograph of the first petitioner. Insofar as the second petitioner herein is concerned, the cause title itself shows that he is founder Director of the company. The issue as to whether the petitioners are directly responsible for collection of money can be looked into only after completion of the investigation. Apart from that the material on record also discloses that the petitioners herein are involved in number of crimes registered at different places.

In view of the above allegations and as the investigation is still pending, I am not inclined to grant bail to the petitioners, though one of the petitioner was granted anticipatory bail in Crime No.89 of 2012 of Ongole I Town Police Station, more so when the matter is seized by the Division Bench of this Court in PIL No.18 of 2016 and 19 of 2016.

Accordingly, the Criminal Petition is dismissed.

C. PRAVEEN KUMAR, J

27.04.2016
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