

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 1047 of 2015

ORDER:

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The petitioner, who is accused No.3, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.70 of 2014 of Atlur Police Station, Kadapa District, registered for the offences punishable under Section 379 read with 34 IPC, Section 29 (I) (V) of Andhra Pradesh Forest Act and Sections 3 and 4 of the PDPP Act.

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

Learned counsel for the petitioner submits that as on the date of offence the petitioner was lodged in jail and as such his involvement in the crime is false. He submits that except confession of co-accused there is no other material connecting the petitioner with the Crime.

Learned Public Prosecutor opposed the application.

A perusal of the averments made in the First Information Report and also the panchanama clearly disclose that the petitioner was not present at the scene of offence on the date of incident and arrest of accused Nos.1 and 2. It is the case of the prosecution that the petitioner along with other accused cut the red sander trees in Lankamalla Reserve Forest Area and dumped the logs at a secret place earlier to the date of arrest of accused Nos.1 and 2. Therefore, the detention of the petitioner in jail on 21.11.2014 does not in any help to him. Except the confession of co-accused there is no material connecting the petitioner with the crime, but the issue as to the reliability of confession of co-accused while dealing with the bail application is no more *res integra* in view of the judgment of the Apex Court in **State** *though C.B.I. V. Amarmani Tripathy*^[1], wherein it is held as under:

“The Apex Court in categorically laid down that the confession of co-accused can also be a basis for holding *prima facie* accusation against the accused for negating bail in rejecting the contention contra.”

The material on record discloses that the petitioner is involved in five other cases. The details of which are as under:

1. Crime No.40 of 2013 of Atlur Police Station, registered for the offences punishable under Section 353 read with 34 IPC and Section 3 of the PDPP Act.
2. Crime No.157 of 2013 of Badvel Urban Police Station, registered for the offences punishable under Section 353 read with 34 IPC and Section 3 of the PDPP Act.
3. Crime No.170 of 2014 of Badvel Urban Police Station, registered for the offences punishable under Section 353 read with 34 IPC and Section 3 of the PDPP Act.
4. Crime No.181 of 2013 of Badvel Urban Police station, registered for the offences punishable under Sections 353 read with 34 IPC and Section 3 of the PDPP Act.
5. Crime No.183 of 2013 of Badvel Urban Police Station, registered for the offences punishable under Sections 353 read with 34 IPC and Section 3 of the PDPP Act.

In view of the above and since the petitioner involved in similar offences, the petitioner cannot be subjected to anticipatory bail.

Accordingly, the Criminal Petition is dismissed. It is always open to the petitioner to surrender before the Court concerned and move

an application for regular bail.

JUSTICE C. PRAVEEN KUMAR

19.02.2015
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