

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.1358 of 2015

ORDER:

The petitioner, who is accused No.8, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.127 of 2014 of Obulavaripalli Police Station, registered for the offences punishable under Section 309 IPC, Section 20 (1) (a) (2) (3) (b) and Section 29 (4) (b) of the Andhra Pradesh Forest Act, 1967, Rule 3 of Red Sanders and Sandalwood Transit Rules, 1969, Sections 3 and 5 of the Prevention of Damage to Public Property Act, 1984.

The case of the prosecution is that on the intervening night of 17.07.2014 at about 10.30 a.m. on credible information the Inspector of Police along with forest officials were started in police Jeep bearing No. AP 9P 5210, reached near Indiranagar which is at a distance of 3 kms. from Balireddypalli village, they found four persons carrying red sander logs. On seeing the police party, they are alleged to have skulk away from there, but the police chased and apprehended one person. On interrogation, he confessed that he along with his son Mallu Mallikarjuna Reddy (petitioner), his brother and Karrathoti Ramanaiah went into Indiranagar forest area, while they were carrying the red sander logs which were concealed there, the police came and caught hold of them. Police seized the red sander logs weighing about 73 kgs. Basing on these allegations the above case came to be registered.

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

Learned counsel for the petitioner submits that even accepting the allegations in the report to be true, no offence is made out against the petitioner. According to him, the petitioner is a B-tech student and

if he is arrested, his entire career is spoiled.

Learned Public prosecutor opposed the application contending that the petitioner is involved in three cases of similar nature as such he is not entitled for the relief sought for.

A perusal of the material on record would show that the petitioner is an accused not only in this crime but also in Crime No.115 of 2014 and 12 of 2014 of Obulavaripalli Police Station. The learned Public Prosecutor placed on record the confession made by the father of the accused, who was arrested on the spot while he was transporting the red sander logs and in the said confession he discloses the involvement of the petitioner in the crime.

While dealing with the relevancy of the confession, learned Single Judge of this Court in ***State of Andhra Pradesh V. Kollam Gangi Reddy***^[1] observed as under:

“The Apex Court in ***State though C.B.I. V. Amarmani Tripathy***^[2] 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.”

There is no dispute that the contraband, which has been seized are red sander logs. CITES as well as International Union for Conservation of Nature (IUCN) has acknowledged that Red Sandalwood is an endangered species. Red sandalwood is species of India seen nowhere in the world. It is found only in South India, especially in Cuddapah and Chittoor in the States of Tamil Nadu and Andhra Pradesh border. Red sandalwood possesses medicinal properties viz., an anticoagulant, improves local circulation and used on traumatic wounds, aberrations and bruises. The Government of A.P. has banned the sale of Red Sanders even by private parties, the wood is of huge demand in Japan, China and Western world and is

very costly and it is included in the negative list of plant species for export purposes, implemented by the Directorate General of Foreign Trade, Ministry of Commerce, placing restrictions on international trade of Red Sanders. Since large scale smuggling of Red Sanders is however reported from various quarters, to protect the species, a proposal was made by the State of A.P. to Government of India for its inclusion in Schedule VI of the Act. Sandalwood finds no place in CITES but was included in the Red List of IUCN as "vulnerable" and hence call for serious attention by the Central Government, considering the fact that all the sandalwood growing states have stated that it faces extinction. **(T.N.Godavarman Thirumulpad v. Union of India and others^[3])**.

The counsel for the petitioner submits that all the accused, who were arrested, were released on bail and the request of the petitioner may be considered since he is a student. But it is to be noted that the petitioner is involved in three crimes of similar nature which in my view are quite grave and serious in nature affecting the ecological balance of Indirangar forest. If the accused, who were stand on the same footing as that of the petitioner were released on bail, nothing prevents the petitioner from taking advantage of the same by surrendering before the Court concerned. In view of the above, I see no reason to grant anticipatory bail to the petitioner.

Accordingly, the Criminal Petition is dismissed. However, the petitioner, if so advised, shall surrender before the Court concerned and move an application for regular before the Court concerned after giving prior notice to the Public Prosecutor, in which event the same shall be dealt with in accordance with law on the same day or atleast by next day.

JUSTICE C. PRAVEEN KUMAR

27.02.2015

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[\[1\]](#) 2014 (2) ALD (Cri) 684

[\[2\]](#) AIR 2005 SC 3490

[\[3\]](#) (2012)4 SCC 362