

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 1176 of 2015

ORDER:

The petitioner, who is accused No.18, filed the present Criminal Petition under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.485 of 2014 of Nellore Rural Police Station, Nellore District, registered for the offences punishable under Sections 447, 427, 379 and 120-B IPC and Section 3 of the Prevention of Damage to Public Property Act, 1984 and Sections 21 (1) and 21 (4) of the Mines and Minerals Development and Regulation Act, 1957.

This is a case of illegal lifting of sand from river Pennar and illegal dumping of the same. On 31.12.2014 at about 11.00 hours the Tahsildar, Nellore, conducted raid near Pottepalem and found sand being illegally lifted from Pennar river with the help of two JCBs and 6 Hitachi vehicles. Basing on these allegations the above case came to be registered.

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 name of the petitioner is not mentioned in the First Information Report.

On the otherhand, the learned Public prosecutor opposed the application contending that statement of LW.6 clearly discloses participation of the petitioner in transportation of sand without any permit or licence.

A perusal of the statement of LW.6 clearly discloses that the petitioner along with other accused illegally lifted sand from Pottepalem reach without permission and dumped the same outside the reach for the purpose of illegal transportation through lorries. It is true that the name of the petitioner was not found in the First

Information Report, but during the course of investigation it was found that he was actively involved in illegal transportation of sand, causing huge loss to the Government. Having regard to the gravity of the offence, I am not inclined 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 bail after giving prior notice to the public prosecutor concerned, in which event the same shall be dealt with in accordance with law either on the same day or atleast by next day.

C.PRAVEEN KUMAR,J

27.02.2015
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