

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.14863 OF 2016

ORDER:

The petitioner, who is A.6, filed the present Criminal Petition under Section 438 Cr.P.C., seeking release in the event of his arrest in Crime No.44 of 2016 of K.V.Palli Police Station, Chittoor District, registered for the offences punishable under Sections 307, 353, 341, 379 and 120(B) read with 149 IPC, Section 22(1)(B) read with 22(1)(c)(A) of the Andhra Pradesh Forest Act, 1967, Rule 3 of the SW & RSW Transit Rules, 1989 and Section 30 of the Indian Arms Act, 1959.

2. The case of the prosecution is that on 28.05.2016 at 6.30 P.M., A.2 to A.8 and others illegally entered into prohibited Seshachalam Forest Area with deadly weapons like axes, stones, cut eight red sandal logs, committed theft and while they were making preparation to transport the same illegally, the police intercepted. Upon which, all the accused formed into a mob and tried to kill the police party with deadly weapons, but police while escaping from them, caught hold of A.1 to A.4. Basing on these allegations, the present crime came to be registered.

3. Learned counsel for the petitioner mainly submits that the petitioner is innocent of the offences alleged; that entire case is based on the confession of the co-accused and except the

confession, there is no other material on record to connect the petitioner with the crime, hence seeks bail.

4. Learned Additional Public Prosecutor opposed the petition.

5. A perusal of the material on record would show that the name of the petitioner finds place in the First Information Report. The statements of the persons apprehended disclose about the involvement of the petitioner in the commission of offence. The issue as to whether the confession of a co-accused can be relied upon for negating a bail came up for consideration before the Apex Court in *State of Andhra Pradesh V. Kollam Gangi Reddy*¹, wherein it is 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.”

6. Having regard to the facts and circumstances of the case, judgment of the Apex Court referred to above and in view of the fact that the petitioner was also present at the spot along with other accused, who were apprehended, it cannot be said that the confession of the co-accused cannot be relied upon. At this stage, learned counsel for the petitioner submits that A.1 to A.4, who were arrested on 28.05.2016, were released on bail on 03.08.2016.

¹ 2014 (2) ALD (CrI) 684

² AIR 2005 SC 3490

7. That being the position, the petitioner shall surrender before the concerned Court and move an application for bail after giving prior notice to the learned Public Prosecutor, in which event, the same shall be dealt with, in accordance with law, at the earliest.

JUSTICE C. PRAVEEN KUMAR

Date:14.10.2016
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