

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.12808 OF 2016

ORDER:

The present Criminal Petition came to be filed by the petitioner/A.4 under Section 438 Cr.P.C., seeking release in the event of his arrest in Crime No.171 of 2016 of Golconda Police Station, Hyderabad, registered for the offences punishable under Sections 302 and 201 IPC.

2. The case of the prosecution is that on 23.05.2016 at 10:00 P.M., the informant lodged a report stating that on 23.05.2016 some unknown offenders entered into the premises of Qutub Shahi tombs and cut 9 sandal wood trees near Nawab Bowli on the north-west side of Qutub Shahi Tombs and took away 8 sandal wood pieces measuring 2 ½ feet length and four inches to six inches dia sandal wood stems. Basing on these allegations, the present crime came to be registered. On receipt of credible information, police apprehended A.1 to A.3 along with an auto bearing No.TS 15 UA 4125 and a plastic bag containing cutting instruments. On interrogation, A.1 to A.3 confessed the commission of offence along with the petitioner and one Khaleel.

3. Learned counsel for the petitioner mainly submits that except the alleged confession made by the accused, there is no other material connecting the petitioner with the present crime and as the other accused are already granted bail, seeks bail to the petitioner.

4. Learned Public Prosecutor opposed the petition contending that the petitioner is involved in another case of similar offence vide Crime No.31 of 2013 of Kanchanbagh Police Station, Hyderabad, and having regard to the nature of allegations levelled against the petitioner, the petitioner is not entitled for the relief.

5. A perusal of the material placed before the Court would show that A.1 to A.3, who were arrested, are alleged to have confessed about the involvement of the petitioner in the present crime. As per their confession, on 23.05.2016 A.3 along with the petitioner and others came to Kanchanbagh, near Golconda, Hyderabad, in an auto bearing No.TS 15 UA 4125 of A.2 along with cutting instruments and entered into Seven tombs area late night on 22/23.05.2016 and committed theft of sandal wood by cutting nine trees and took to Sigitam Village in the same auto. A.1 and A.3 took two pieces and Rs.2,000/- each as their share and A.2 took an amount of Rs.3,000/- as his share and auto fare. The remand report would show that A.4 and A.5 are well aware about the availability of the sandal wood and as per their directions, A.1 to A.3 and others acted in cutting the trees.

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

¹ 2014 (2) ALD (CrI) 684

“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.”

Having regard to the nature of allegations and taking into consideration the judgment of this Court referred to above, I am not inclined to grant anticipatory bail to the petitioner.

7. In view of the representation made and as the other accused were released on bail, the petitioner shall surrender before the concerned Court and move an application for bail before the appropriate Court, in which event, the same shall be dealt with, in accordance with law, at the earliest.

8. Accordingly, the Criminal Petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

Date:06.09.2016
INL

² AIR 2005 SC 3490