

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION Nos.9515 AND 9520 OF 2016

COMMON ORDER:

Both the Criminal Petitions are filed by the same petitioner, and hence, they are disposed of by way of this Common Order.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. Both the Criminal Petitions came to be filed by the same petitioner under Section 438 Cr.P.C., seeking release in the event of his arrest in Crime No.06 of 2016 of Nindra Police Station, Chittoor District registered for the offences punishable under Sections 379, 353, 307, 411, 120-B IPC, Sections 32 and 29 of the Andhra Pradesh Forest Act, Section 27 of the Arms Act, Sections 55(2) and 58 of the Biological Diversity Act, Rule 3 of the A.P. Sandal Wood and Red Sander Wood Transit Rules, 1969, and in Crime No.115 of 2015 of Yadamarri Police Station, Chittoor District, registered for the offences punishable under Sections 307, 353 and 379 IPC, Section 20(1)(c)(iii)(iv)(x) of the A.P. Forest Act, 1967, Section 29 of the Wild Life Protection Act, Rules 3 and 4 of the A.P. Sandal Wood and Red Sander Wood Transit Rules, 1969, Section 25(1)AAA of the Arms Act, Sections 55(2) and 58 of the Biological Diversity Act, 2002.

4. Circumstances, which lead to filing of the present Criminal Petitions are as under:

Pursuant to the registration of crime for the offences referred to above, Police of Yadamarri after conducting search in the residential premises of the petitioner, arrested the petitioner on

06.05.2016 and produced him before the Court of Additional Chief Judicial Magistrate, Alipore, 24 South Paraganas. The Additional Chief Judicial Magistrate, Alipore, on being production of the petitioner for remand enlarged the petitioner on bail subject to the petitioner's surrendering before the IV Munsif and Magistrate Court, Chittoor, Andhra Pradesh positively by 18.05.2016 and report compliance thereof on 26.05.2016, in default to judicial custody.

5. That being the position, the State of Andhra Pradesh represented by its Investigating Officer preferred C.R.R.No.2107 of 2016 before the High Court of Kolkata. By an order dated 13.07.2016 the High Court of Kolkata disposed of the said Criminal Revision, the relevant portion of the said order reads as under:

“Accordingly, the subsequent orders passed by learned Additional Chief Judicial Magistrate, Alipore on May 16, 2016, May 30, 2016 and June 10, 2016 are not justified under the law. Thus, the orders passed by learned Additional Chief Judicial Magistrate, Alipore on May 16, 2016, May 30, 2016 and June 10, 2016 in connection with Yadamari P.S. Case No.115 dated December 28, 2015 are set aside. The Opposite Party No.2 is directed to appear before the concerned court in Andhra Pradesh within July 31, 2016.

Leave is granted to learned counsel for the petitioner to communicate the order to the Opposite Party No.2 within a period of three days from the date of this order.”

6. Two points crop up for consideration viz.,

Whether the petitioner can make an application under Section 438 Cr.P.C., seeking anticipatory bail? If so, whether the petitioner is entitled for relief on merits?

7. Insofar as the maintainability of the petition is concerned, it

is to be noted that by an order dated 13.07.2016 the Kolkata High Court directed the petitioner herein to appear before the concerned Court on or before 31.07.2016 and the learned counsel for the petitioner was directed to communicate the copy of the order to the petitioner within three (03) days from the date of the order. The order of the Kolkata High Court directing the petitioner remained un-challenged till date. That being the position, the question of entertaining the application under Section 438 Cr.P.C., in view of the order of the Kolkata High Court, may not arise. It is also to be noted that the order of the High Court of Kolkata has not been complied with till date as the petitioner failed to appear before the concerned within the time prescribed.

8. Coming to the second point namely as to whether the petitioner is entitled for relief even on merits, learned Public Prosecutor would submit that as seen from the seizure report effected in the residence of the petitioner, more particularly the statement of the another accused by name Laxman show that the petitioner has illegal intimacy with the said Laxman and they both are doing economical transactions by illegal manner through the account of the petitioner since three years. More particularly, the averments in the remand report would show that the said Laxman and the petitioner conspired together and transported the red sander logs to various places. A.19, who was arrested on 30.01.2016, is alleged to have disclosed the involvement of the petitioner in commission of offence. During the house search, which was conducted pursuant to the order passed by the IV Additional Judicial Magistrate of I Class, Chittoor, dated 04.05.2016 in CrI.M.P.No.1497 of 2016, the following items were seized:

1. Original arms licence issued by Government of Nagaland in the name of Smt Sangeeta Chatterjee bearing licence No.898NH/new.
2. Cancelled blank cheque of HDFC bank A/c.No.07891930006145 bearing cheque No.329472.
3. Pass book of UCO Bank Jodpur park Kolkata bearing A/c. No.17320110014905.
4. Pass book of Axis bank bearing A/c.No.912010027397759 of Sangeeta Chatterjee.
5. Pass book of IOB bearing A/c.No.142601000006146 of Sangeeta Chatterjee.
6. Another pass book of Axis bank bearing A/c.No.911010022026277 of Sangeeta Chatterjee.
7. One cancelled blank cheque of Axis bank vide A/c.No.915020008694318 of Sangeeta Chatterjee.
8. Copies of IT returns in respect of Sangeeta and its enclosures which sheets 1 to 12.
9. One bank locker key set to be pertaining to UCO bank bearing key No.1732/51 of Godrej make key.
10. Another bank locker key of UCO bank bearing key No.1732/52 of Godrej make key.
11. One HP company make laptop having red colour bearing model No.11n016TU.

After seizure of the above items, A.8 was arrested.

9. Having regard to the nature of allegations made and in view of the orders passed by the Kolkata High Court, the request of the petitioner cannot be considered.

10. Accordingly, both the Criminal Petitions are dismissed.

JUSTICE C. PRAVEEN KUMAR

Date:10.08.2016

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