

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13561 of 2016

ORDER:

The petitioner, who is accused No.3, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.23 of 2016 of yadamari Police Station, Chittoor District, registered for the offences punishable under Sections 307, 353, 379 and 120B IPC, Section 20 (1) (c)(iii)(iv)(x) of A.P. Forest Act, 1967, Sections 3 and 4 of A.P.Sandal Wood and Red Sandal Wood Transit Rules, 1969, Section 29 of Wild Life Protection Act, Section 55 (2) and 58 of Biological Diversity Act, 2002, Section 25 (1AAA) of Arms Act, 1959.

The case of the prosecution is that on 20.03.2016 at 11.30 a.m. on Tirupathi-Bangalore by-pass road near Ramabhadrapuram Village, Varigipalli, Yadamarri Mandal, petitioner and other accused were found illegally transporting red sander logs in Omini Maruthi Suzuki from Tirupati side towards Vellore. When Police intercepted, the accused party attacked the Police with arms like sticks, iron rods. However, the Police escaped from the attack and apprehended some of the accused and recovered 214 kgs. of red sander logs worth Rs.4,28,000/- from their possession. Basing on these allegations, present report came to be lodged.

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

Learned counsel for the petitioner submits that the allegations made against the petitioner are invented for the purpose of this case. He further submits that except the confession of co-accused, there is no material to connect the petitioner with the crime.

Learned Public Prosecutor opposed the application contending that the case is still at the stage of investigation and at this stage it cannot be said that the petitioner is innocent of the offence.

A perusal of the confession of accused, which is recorded in the presence of mediators, would show that this petitioner is alleged to have been involved in the commission of offence. Though the learned counsel for the petitioner tried to contend that the confession of co-accused is inadmissible in evidence, but the Apex Court in **State through C.B.I. V. Amarmani Tripathy¹**, held as under:

"The admissibility or otherwise of the confessional statement and the effect of the evidence already adduced by the prosecution and the merit of the evidence that may be adduced hereinafter including that of the witnesses sought to be recalled are all matters to be considered at the stage of the trial."

It is to be noted that the manner in which the offence took place can only be find out if the petitioner co-operates with the agency or by obtaining custody. Therefore, having regard to the nature of the offence and circumstances of the case, the request

¹ AIR 2005 SC 3490

of the petitioner for grant of anticipatory bail cannot be considered. However, the petitioner is advised to surrender before the Court below and move an appropriate application seeking bail after giving prior notice to the Public Prosecutor, in which event, the same shall be considered in accordance with law either on the same day or at the earliest.

Accordingly, the Criminal Petition is disposed of.

23.09.2016
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C. PRAVEEN KUMAR, J

