

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7355 of 2018

ORDER :

The petitioner is A.2 among several accused of Crime No.84 of 2017 of Chittoor Taluk Police Station, Chittoor District, dated 21.11.2017, registered for the offences punishable under Sections 447, 379, 411 and 403 read with 34 IPC and Section 36 of A.P. Forest Act, 2016 read with Section 32(a) of the A.P. Forest Act, 2016. He was arrested on 21.11.2017 and he is in judicial custody since then.

2. According to the prosecution case, the Sub Inspector of Police, Chittoor Taluk, who is the *de facto* complainant, secured the panchas and apprehended the four accused and seized the Red Sandal Logs, which are 20 in number, weighing about 2010 kgs., while carrying the same in Eicher Mini Lorry bearing No.AP 07 TB 4788, worth more than Rs.30 lakhs, at about 5.00 a.m. under cover of panchanama having there from arrested the accused persons from disclosure and seizure covered by panchanama recorded, produced for judicial custody. The record shows they were apprehended having been chased while tried to escape with the vehicle without stopping. The so-called detailed confessions of them and the complicity of other accused persons i.e., A.5 to A.8 in the *modus operandi* of the smuggling the Red Sandal stated recorded and the transport of the Red Sandal Logs uprooted from the trees is towards Tamilnadu State for gain. The police after investigation filed the final report, that was

taken cognizance by the Committal Magistrate and on committal allotted S.C.No.71 of 2018 pending before the learned Principal Assistant Sessions Judge, Chittoor to whom part of the Sessions Division made over.

3. The petitioner went unsuccessful for regular bail including by order in Crl.P.No.252 of 2018 latest dated 27.06.2018.

4. Heard learned counsel for the petitioner and learned Public Prosecutor, representing the State.

5. The series of the applications filed by the petitioner for regular bail ended in dismissal are referred in para 5 of the Crl.P.No.252 of 2018, dated 27.06.2018, thereby, no way requires repetition. So far as the present bail application contentions of the learned counsel for the petitioner/A.2 are that he is innocent and falsely implicated and he is in judicial custody since 21.11.2017 and breadwinner of the family and his family is in destitution because of his apprehension, thereby entitled to the concession of regular bail.

6. The learned Public Prosecutor opposed the bail application with such say by placing reliance on two expressions one is a single Judge expression of the Karnataka High Court in **Mohammad Sharif; VP Ibrahim Badasha; Yusuf Vs. State of Karnataka**¹ for the offences involving red sandal logs covered by Wild Life Protection Act, Karnataka Forest Act offences, what was observed is the Supreme

¹ 2015 Law Suit (Kar) 1777

Court in **TN Godavarman Thirumulpad Vs. Union of India and Others**² held that red sanders wood is endemic and an endangered species that in the absence of any statute declaring it to the contrary, the law propagated by the Apex Court is the law of the land and binds all in International Union of Conservation of Nature (IUCN) dedicated to find pragmatic solutions of our most pressing environment and development challenges included *Santalum album* Linn in its red list as endangered which is Indian Red sander wood of threatened species as vulnerable and there is extremely high risk of its extinction and it is but for in some of the places in south India especially in Cuddapah and Chittoor in AP border to Tamilnadu nowhere in the world available and it is possessing medicinal properties and trading is mostly in south India in AP which can be only through AP Forest Corporation officially by Government for otherwise banned to deal with by private parties since the wood is of huge demand in Japan, china and western world and is very costly and it is included in the 38 negative list of plant species for export purposes, implemented by the Directorate General of Foreign Trade, Ministry of Commerce placing restrictions on international trade of red sanders and despite large scale smuggling of red sanders reported from various quarters and State of AP included in schedule VI of Wild Life Protection Act. In **Gramophone Company of India Vs. Birendra Baldev Pandey**³

² 2012 4 SCC 362

³ 1984 2 SCC 534

and which the Central Government to take steps and the Apex Court in **TN Godavarman supra** given a direction for such inclusion being the red sander an endangered species and it is necessary for the courts of law to adopt stringent approach as deterrent to indiscriminate cutting and smuggling of red sanders wood as held by the Apex Court and it is irrelevant to take note of a recent incident of death of 20 persons in the Forest of Chittoor, AP, which absolutely mandates a stringent and conservative approach to the cases involving red sanders wood. It is a national wealth and thereby the petitioners and others like the petitioners indulge in illegal trade are not entitled to the concession of bail therefrom indulging in obstruction of the invaluable natural wealth and thereby no sympathy can be deserved by them to any concession of bail under personal liberty to impede the national wealth.

7. The said expression of the Apex court in **TN Godavaraman supra** referred in **Mohd Sharif supra** reiterates the same that was reproduced to the relevancy supra no way requires repetition what the Apex Court in the last para observed is a legislation similar to the Endangered Species Act, enacted in the United States which protects both endangered species defined as those in danger of extinction throughout all or a significant portion of their range and threatened species, those likely to become endangered within a foreseeable time. The term species includes species and sub-species of fish, wildlife and plants as well as geographically distinct populations of vertebrate

wildlife even though the species as a whole may not be endangered and we hope Parliament would bestow serious attention in this regard.

8. In fact this Court also way back in 2015 while disposing of the bail application in Crl.P.No.5830 of 2014 dated 05.06.2014 in **G.Ramanath Reddy @ V. Ramanath Reddy Vs. State** observed that in the larger interest of the society and to save the national wealth and to protect the environment and to serve as a threat to those impeding the wealth by choosing to commit theft and in smuggling the valuable red sandal wood and getting illegal wealth in crores; like in NDPS Amended Act 2001; it is just to draw attention of the Government to make necessary amendments in Sections 20 & 29 of the AP Forest Act, which as on date with lenient punishment so as to provide deterrent punishments by defining small, large and above small and below large quantities of the red sandal with stringent punishment, depending upon such grades, equally in the transit rules to serve in protecting wealth. It was also observed therein that the crime registered for 266 kgs of red sandal wood involved as if only involving Sections 20 & 29 of AP Transit Rules 1969 besides IPC offences of theft and attempt to attack public conservative the police official and mischief and use of force and assault on public conservative it since attracts penal provision like Section 20(1)(d) and Section 29 of AP Forest Act and Section 3 of Prevention of Damages to the public property Act and Sections 55 & 58 of Bio Diversity Act besides Wild Life Protection Act penal provisions.

9. Though bail was granted therein it was not brought to the notice of this Court the further importance of the expression already of the law laid down by the Apex Court in **TN Godavaraman supra**.

10. A perusal of the above law from the expressions of the Constitutional Courts clearly indicates that the petitioners are not deserving to the concession of the bail though under personal liberty or from long incarceration since in judicial custody from 16.12.2017 and particularly in this case from 21.11.2017.

11. Having regard to the above, the petitioner is not entitled to the concession of bail as rightly dismissed more than five times by the Court of Sessions or this Court, as the case may be, earlier, but for to direct for early conducting of trial and made clear that none of the observations herein or earlier dismissal of the bail applications will prejudice the defence of the petitioner/accused during trial. The trial Court shall make every endeavour to complete the trial within five months, if charges already framed and if not framed to hear and if at all framed and not discharged.

Miscellaneous petitions pending, if any, shall stand closed.

25th July 2018.

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Dr. B. SIVA SANKARA RAO, J