

**THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**CRIMINAL PETITION No.1357 of 2015**

**ORDER:**

The petitioner, who is accused No.8, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.115 of 2014 of Obulavaripalli Police Station, registered for the offences punishable under Sections 147, 148, 324, 353, 307, 309 and 379 read with 149 IPC, Section 20 (1) (a) (2) (3) and Section 29 (4) (b) of the Andhra Pradesh Forest Act, 1967, Rule 3 of the Red Sanders and Sandalwood Transit Rules, 1969, Section 3 of the Prevention of Damage to Public Property Act, 1984, Section 7 (1) of Criminal Law Amendment Act and Police Firing.

The case of the prosecution is that on the intervening night of 7/8.06.2014 at about 2.30 a.m. the Inspector of Police along with forest officials conducted raid at Lothu Vanka at Obulavaripalli-Y.Kota Road pursuant to an information received about the smuggling of red sander logs from Gadela forest. When the police party went there, they found the persons who were present there loading red sander logs into a lorry. On seeing the police, the accused hide themselves in nearby bushes, when, the police officials and staff of the forest department gave warning, all the accused are alleged to have formed themselves into an unlawful assembly and alleged to have attempted to attack the police with sticks and axes. When the police opened fire, they ran away. Thereafter, the police seized 305 red sander logs from the scene. Basing on these allegations the above said crime came to be registered.

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

Learned counsel for the petitioner submits that even accepting the allegations in the report to be true, no offence is made out against

the petitioner. According to him, the petitioner is a B-tech student and if he is arrested, his entire career would be spoiled.

Learned Public prosecutor opposed the application contending that the petitioner is involved in three cases of similar nature as such he is not entitled for the relief sought for.

A perusal of the material on record would show that the petitioner is an accused not only in this crime but also in Crime No.127 of 2014 and 12 of 2014 of Obulavaripalli Police Station. The learned Public Prosecutor placed on record the confession made by the accused in Crime No.127 of 2014 of Obulavaripalli Police Station. In the said crime the father of the petitioner was arrested on the spot while he was transporting red sander logs and in the said confession he reveals the involvement of the petitioner in the crime.

While dealing with the relevancy of the confession, the Apex Court in ***State though C.B.I. V. Amarmani Tripathy***<sup>[1]</sup> 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.”

There is no dispute that the contraband, which has been seized are red sander logs. CITES as well as International Union for Conservation of Nature (IUCN) has acknowledged that Red Sandalwood is an endangered species. Red sandalwood is species of India seen nowhere in the world. It is found only in South India, especially in Cuddapah and Chittoor in the States of Tamil Nadu and Andhra Pradesh border. Red sandalwood possesses medicinal properties viz., an anticoagulant, improves local circulation and used on traumatic wounds, aberrations and bruises. The Government of A.P. has banned the sale of Red Sanders even by private parties, the wood is of huge demand in Japan, China and Western world and is

very costly and it is included in the 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. Since large scale smuggling of Red Sanders is however reported from various quarters, to protect the species, a proposal was made by the State of A.P. to Government of India for its inclusion in Schedule VI of the Act. Sandalwood finds no place in CITES but was included in the Red List of IUCN as "vulnerable" and hence call for serious attention by the Central Government, considering the fact that all the sandalwood growing states have stated that it faces extinction. **(T.N.Godavarman Thirumulpad v. Union of India and others<sup>[2]</sup>)**.

The counsel for the petitioner submits that all the accused, who were arrested, were released on bail and the request of the petitioner may be considered since he is a student. But it is to be noted that the petitioner is involved in three crimes of similar nature which in my view are quite grave and serious in nature affecting the ecological balance of entire Simhachalam forest. If the accused, who stand on the same footing as that of the petitioner are released on bail, nothing prevents the petitioner from taking advantage of the same by surrendering before the Court concerned. Hence, I see no reason to grant anticipatory bail to the petitioner.

Accordingly, the Criminal Petition is dismissed. However, the petitioner, if so advised, shall surrender before the Court concerned and move an application for regular before the Court concerned after giving prior notice to the Public Prosecutor, in which event the same shall be dealt with in accordance with law on the same day or atleast by next day.

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**JUSTICE C. PRAVEEN KUMAR**

27.02.2015

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[\[1\]](#) AIR 2005 SC 3490

[\[2\]](#) (2012)4 SCC 362