

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition (Criminal) No. 942 of 2018**

Prem Pal

.....Petitioner

Versus

State of Uttarakhand and others

....Respondents

Mr. Mani Kumar, Advocate for the petitioner.

Mr. Siddhartha Bisht, Brief Holder for the State of Uttarakhand.

Dated: 30.05.2018

**Hon'ble V.K. Bist, J.**

Petitioner has approached this Court seeking the following reliefs:-

- I. Issue a writ order or direction in the nature of Certiorari quashing the impugned F.I.R. dated 25.03.2018 registered as F.I.R. No. 32 of 2018 under Section 379, 411 I.P.C. and Section 26 Forest Act Police Station Kelakhera District Udham Singh Nagar.
  - II. Issue a writ order or direction in the nature of mandamus commanding the respondents not to arrest the petitioners in F.I.R. No. 32 of 2018 under Section 379, 411 I.P.C. and 26 Forest Act Police Station Kelakhera District Udham Singh Nagar till the pendency of present petition.”
2. Allegation against the petitioner in the first information report is that the petitioner is doing illegal transportation of *khair* wood.
  3. It is the submission of the learned counsel for the petitioner that petitioner has falsely been

implicated in the instant crime. He submitted that petitioner was not arrested on the spot and nothing was recovered from the petitioner. He further submitted that there was no independent witness of the alleged recovery.

4. I have considered the submissions of learned counsel for the parties and have gone through the contents of the F.I.R. Contents of F.I.R. *prima facie* disclose commission of offence. In my opinion, it is not a fit case where the Court should interfere under Article 226 of the Constitution of India. It is for the Investigating Officer to investigate the matter and thereafter to file either the charge sheet or final report in the matter. The Hon'ble Apex Court, in the case of State of **West Bengal. Vs. Swapna Kumar, 1982 (1) SCC 561**, has held that if an offence is disclosed, Court will not normally interfere with the investigation into the case, and will permit investigation into the offence alleged to be completed. If the FIR, *prima facie*, discloses the commission of an offence, the Court does not normally stop the investigation, for, to do so would be to trench upon the lawful power of the police to investigate into cognizable offences. Consequently, the writ petition is dismissed.

5. Stay Application (CLMA No. No. 6817 of 2018) stands rejected.

6. Learned counsel for the petitioner then prayed that in case offence is made out against the petitioner, in that event, the petitioner will surrender before the Courts concerned and will move the bail

application and the Courts concerned may be directed to decide his bail application on the same day. In my view, every bail application should be considered and decided by the learned Court below without any unreasonable delay; but, needless to say that it should be decided strictly in accordance with law. Considering the submission of learned counsel for the petitioner, it is observed that in case petitioner surrenders and moves bail application, the same shall be decided by the concerned Courts very very expeditiously, preferably on the same day, in accordance with law.

**(V.K. Bist, J.)**

30.05.2018

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