

Nachimuthu Vs. State of Kerala

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Court : Kerala

Decided On : Jul-29-2013

Judge : Honourable Mr.Justice S.S.Satheesachandran

Appellant : Nachimuthu

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.S.SATHEESACHANDRAN MONDAY, THE 29TH DAY OF JULY 2013 7TH SRAVANA, 1935 Bail Appl.No. 4729 of 2013 ()
----- CRIME NO. 153/2013 OF MARAYOOR POLICE STATION, IDUKKI DISTRICT. PETITIONER: -----
NACHIMUTHU, AGED 3 YEARS, S/O. BHAGAVATHY, MARAYOOR GRAMAM, MARAYOOR VILLAGE. BY ADV. SRI.V.PHILIP MATHEW. RESPONDENT: -----
STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT.LALIZA T.Y. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29-07-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. S.S.SATHEESACHANDRAN, J.

----- B.A No.4729 of 2013
----- Dated this the 29th day of July, 2013
ORDER Petitioner is the accused in Crime No.153 of 2013 of Marayoor Police

Station, registered for the offence punishable under Section 20(a)(i) of Narcotic Drugs and Psychotropic Substances Act. He has filed the above application seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure.

2. Allegation is that three ganja plants were grown by petitioner in a property wherein he cultivated sugar canes and it was detected by police party on 18.03.2013. Ganja plants, age of which varied from one month to six months, were uprooted, and, after collecting samples, destroyed by police party. Property in which the ganja plants were grown continued under the enjoyment of petitioner for several years, B.A No.4729/2013 2 wherein he cultivated sugar canes. Crime registered for the offence stated supra is now pending investigation. Petitioner, after having unsuccessfully moved an application for the discretionary relief of anticipatory bail from the Sessions Judge, which was turned down by Annexure 2 Order, has approached this court seeking the same relief.

3. I heard learned counsel for petitioner and also learned Public Prosecutor. Property from where ganja plants were detected giving rise to registration of the crime belongs to some third parties, is the submission of counsel. Petitioner has no connection with the cultivation carried in such property and he has been falsely implicated in the crime, is the further submission of counsel urging that there is no documentary material to connect him with the property. Opposing the application learned Public Prosecutor submitted that the investigation so far conducted would reveal complicity of petitioner in the grave offence imputed of and this is not a fit B.A No.4729/2013 3 case where petitioner can be extended pre-arrest bail.

4. Case diary has been produced for my perusal. Looking into the materials covered by case diary, I find that the investigating agency has gathered sufficient materials to support the allegation imputed that the property in which ganja plants were detected continued under possession and enjoyment of petitioner for quite some time. At this stage, I do not want to dilate upon the question whether documentary material is required to show the connection of petitioner with the property in which ganja plants cultivated were detected by police. Suffice to state that even owners of the property questioned by police, it is stated, gave statements that the property was enjoyed by petitioner for cultivating sugar cane.

When such be the case, this is not a fit case wherein petitioner can be extended the discretionary relief canvassed.

5. At this stage, learned counsel for petitioner requested for an opportunity to surrender before the Investigating Officer B.A No.4729/2013 4 and co-operate with investigation, fixing date and time to do so by an order of this court. Considering the request made while declining pre-arrest bail, following directions are issued. In case petitioner appear before the Investigating Officer at 10:00 a.m on 02.08.2013, after his interrogation, in the event of his arrest in the crime, he shall be produced before the competent court without delay. Petition is dismissed. vdv
S.S.SATHEESACHANDRAN, JUDGE

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