

Moose Vs. State of Kerala

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Court : Kerala

Decided On : Aug-14-2013

Judge : Honourable Mr.Justice S.S.Satheesachandran

Appellant : Moose

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.S.SATHEESACHANDRAN WEDNESDAY, THE 14TH DAY OF AUGUST 2013 23RD SRAVANA, 1935 Bail Appl..No. 5196 of 2013
() ----- CRIME NO. 253/2013 OF AGALI POLICE STATION , PALAKKAD APPLICANT.ACCUSED: -----
MOOSA, AGED 5 YEARS, S/O.MOOSAKUTTY, CHAVADIYUR, PUTHUR, ATTAPADI, MANNARKKAD TALUK, PALAKKAD DISTRICT BY ADVS.SRI.P.VIJAYA BHANU (SR.) SMT.M.A.SHEEBA SRI.VIPIN NARAYAN
RESPONDENT/COMPLAINANT: ----- STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. R BY PUBLIC PROSECUTOR,SRI.V.SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14-08-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: DG S.S.SATHEESACHANDRAN, J ----- B.A.No.5196 of 2013 ----- Dated this the 14th day of August, 2013 ORDER
Petitioner is the accused in crime No.253/2013 of Agali Police Station, registered

for offences punishable under Section 3(i) (a) read with Section 7(a) (ii) of the Essential Commodities Act and Section 118(e) of the Kerala Police Act. He has filed the above application seeking anticipatory bail under Section 438 of the Code of Criminal Procedure, for short "the Code".

2. Petitioner is stated to be the owner of a shop. Petrol was stored in that shop for sale is the basis for proceeding against him for the offences under the Essential Commodities Act. In the very same shop pan massala was also kept for sale is the further allegation to proceed with for the offence punishable under Section 118 (e) of the Police Act. The above two items were detected by police in a raid conducted over that shop on 25.04.2013 at about 7:30 p.m. A1, son of petitioner and A2, another, were arrested at the spot and later both of them were produced before the magistrate. Petitioner who was implicated as 3rd accused in the crime. Submitting that he is innocent, he has moved this B.A.No.5196 o

2. application, seeking pre-arrest bail.

3. Petitioner is innocent and has been falsely implicated in the crime, is the submission of his counsel. He is a cardiac patient undergoing treatment, is the submission of counsel relying on some documents produced with the petition. After hearing the submissions made by learned public prosecutor also and taking note of the facts and circumstances presented in the case in which offences punishable under the Essential Commodities Act are imputed of, I find this is not a fit case where petitioner can be extended pre-arrest bail. He being the owner of shop from which the contrabands are alleged to have been detected and seized cannot be absolved totally from the imputations made in the case. Whatever defence available to petitioner can be presented before the investigating officer appearing before him and co-operating with the investigation.

4. At this stage learned counsel for petitioner requested for an opportunity to surrender before the investigating officer, fixing date and time to do so by an Order of this Court. Considering the request while declining pre-arrest bail, following directions are issued: B.A.No.5196 o

3. In case petitioner surrender before the investigating officer at 10:00 a.m on 20.08.2013 after his interrogation and in the event of his arrest in the crime he shall be produced before the magistrate without delay. On such production, application for bail if any moved by petitioner with advance notice to Assistant Public Prosecutor shall be considered by magistrate expeditiously and disposed on its merits in accordance with law. Sd/- S.S.SATHEESACHANDRAN, JUDGE
//TRUE COPY// P.A TO JUDGE DG

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