

NithIn Vs. State of Kerala

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Court : Kerala

Decided On : Apr-02-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Nithin

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN WEDNESDAY, THE 2D DAY OF APRIL 2014 12TH CHAITHRA, 1936 CrI.MC.No. 1935 of 2014
----- AGAINST THE

ORDER

IN CRLMP11972014 of JUDICIAL FIRST CLASS MAGISTRATE COURT, ADOOR CRIME NO. 255/2014 OF PANDALAM POLICE STATION , PATHANAMTITTA ----- PETITIONER/ACCUSED NO.4: ----- NITHIN, AGED 23 YEARS, S/O SURENDRAN, PUTHILETHU VEEDU, MANGARAM MURI, PANDALAM VILLAGE. BY ADVS.SRI.K.SHAJ SRI.SAJJU.S RESPONDENT/STATE: -----

1. STATE OF KERALA, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031.

3. The petitioners were arrested on 18.02.2014 and thereafter, they were in jail. Petitioner in CrI.M.C.No.1940/14 filed CrI.M.P.No.1238/14 and petitioner in CrI.M.C.No.1935/114 CrI.M.C.Nos. 1940 & 1935 of 2014 :

2. : filed CrI.M.P.No.1197/14 for bail and learned magistrate by Annexure-1 order in the respective above cases allowed the application with conditions inter alia that they shall deposit Rs.3,50,000/- the loss allegedly sustained by the de facto complainant as a condition for granting bail. Both these petitioners are now challenging that condition by filing these petitions under Section 482 of Code of Criminal Procedure.

4. Heard the Counsel for the petitioner and the learned Public Prosecutor.

5. The Counsel for the petitioners submitted that the direction to the petitioners to deposit the amount of alleged loss of Rs. 3,50,000/- as a condition for granting bail is illegal and that will amount to denial of bail and the petitioners are not in a position to deposit this amount. So, they prayed for lifting that condition.

6. The application was opposed by the Public Prosecutor on the ground that huge loss has been sustained by the de facto complainant on account of wrongful act of the petitioners.

7. It is an admitted fact that on the basis of the statement given by the de facto complainant Crime No.255/14 CrI.M.C.Nos. 1940 & 1935 of 2014 :

3. : of Pandalam Police Station was registered against the petitioners in both the cases who were arrayed as accused Nos.3 and 4 respectively and two others alleging offences under Sections 452, 323, 324, 427, 294(b) read with Section 34 of Indian Penal Code. It is also an admitted fact that both the petitioners were arrested on 18.02.2014 and they are in jail from that date onwards. They filed the applications for bail and the learned magistrate by independent orders allowed the application for bail but, imposed conditions inter alia to deposit Rs.3,50,000/- being the alleged loss sustained by the de facto complainant on account of the alleged wrongful acts committed by the accused persons. The question whether they have committed the offence itself in dispute. Further, the actual loss sustained has not

been assessed as well. It is true that the courts can impose conditions while granting bail to the accused persons. But, at the same time, the condition should be of such nature that could be capable of complied with by the persons. If any condition is imposed which is incapable of complying with by the accused persons, then, that will amount to denial of bail itself. There is no condition precedent except in the case of damage caused to public property that too in CrI.M.C.Nos. 1940 & 1935 of 2014 :

4. : view of the decision of this court to deposit the amount of loss alleged to have been sustained as a condition for granting bail. So, under the circumstances, the condition imposed by the court below in both the applications to deposit Rs.3,50,000/- as condition for releasing the petitioners on bail is unsustainable in law and the same is liable to be set aside. So, the condition directing the petitioners to deposit Rs.3,50,000/- as a condition for release them on bail as per Annexure A1 orders in both the applications are set aside and lifted. With the above observation and direction, the petitions are allowed. Office is directed to communicate this order to the concerned courts immediately. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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