

Haneefa Vs. State of Kerala

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Court : Kerala

Decided On : Oct-09-2014

Judge : Honourable Mr. Justice a.Muhammed Mustaque

Appellant : Haneefa

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN THURSDAY, THE 9TH DAY OF OCTOBER 2014 17TH ASWINA, 1936 Bail Appl..No. 6891 of 2014 () ----- CRIME NO. 10/2014 OF ALATHUR FOREST RANGE OFFICE , PALAKKAD PETITIONER(S)/4TH ACCUSED: ----- HANEEFA, AGED 48 YEARS, S/O. MOIDU, KUTHUKOLLAN HOUSE, P.O. THEKKUMURI OTTAPALAM TALUK, PALAKKAD DISTRICT. BY ADV. SRI.P.JAYARAM RESPONDENT/COMPLAINANT: ----- STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09-10-2014, ALONG WITH BA NO.6892/2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: dlk K. RAMAKRISHNAN, J.

..... B.A.Nos. 6891 & 6892 of 2014
..... Dated this the 9th day of October, 2014.

ORDER

B.A.No.6891/2014 was filed by the fourth accused in O.R.No.10/2014 and B.A.No.6892/2014 was filed by the 6th accused in O.R.No.7/2014 both of Forest Range Office, Alathur for anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. In both the cases the case of the prosecution in nutshell was that the accused along with others trespassed into the forest area and committed theft of sandal wood trees and thereby all of them have committed the offences punishable under Sections 27(1)(e)(iii) and 40(1) of the Kerala Forest Act in OR.No.10/2014 and Sections 47 (c)1(1), 47(f)1 and 47(g)3 of the Kerala Forest Act in OR.No.7/2014.

3. The counsel for the petitioner in both the cases submitted that the petitioner has not involved in any crime. In fact he was implicated in both the cases on the basis of the alleged confession statement given by the co-accused. In fact articles were seized, vehicle was also seized and there is no B.A.Nos. 6891 & 6892 of 2014 2 necessity for custodial interrogation. So he prayed for allowing these applications.

4. The applications were opposed by the Public Prosecutor as custodial interrogation is required.

5. Heard both sides and perused the case diary files.

6. It is an admitted fact that originally OR.No.7/2014 was registered when the forest officials found some sandal wood trees were cut and removed from the reserved forest. Thereafter they seized certain sandal woods from the possession of accused 1 and 2 and on their interrogation, it was revealed that other persons including the present petitioner had involved in that crime and also similar offences were also committed earlier. Accordingly O.R.No.10/2014 was also registered against the petitioner and others. The petitioner had moved anticipatory bail application before this Court in O.R.No.10/2014 of Forest Range Office as B.A.No.5178/2014 and that petition was dismissed by this Court as per order dated 16.7.2014, but in spite of that he had not surrendered before the investigating officer or before the court. But subsequently he moved these two

applications for anticipatory bail in both the cases. Considering the nature of offence and also the B.A.Nos. 6891 & 6892 of 2014 3 conduct of the petitioner, this Court feels that it is not a fit case to invoke the extra ordinary jurisdiction under Section 438 of the Code to grant anticipatory bail to the petitioner in these cases. He can very well surrender either before the investigating officer or before the concerned court and if he surrenders before the investigating officer, then the investigating officer, after recording his arrest shall produce before the concerned Magistrate court without delay and on such production if the petitioner moves for regular bail in these cases, then the learned Magistrate is directed to consider and dispose of the bail applications strictly in accordance with law. So the petitioner is not entitled to get anticipatory bail and these petitions are liable to be rejected. In the result, both these petitions are rejected with the above observations. Sd/- K. RAMAKRISHNAN, JUDGE. cl /true copy/ P.S to Judge B.A.Nos. 6891 & 6892 of 2014 4

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