

Mohammed vs State of Kerala

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Court : Kerala

Decided On : Mar-27-2025

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/1600/2025

Appellant : Mohammed

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947 CRL.MC NO. 1600 OF 2025 CRIME NO.18/2024 OF Hosdurg Excise Circle Office, Kasargod CRMC NO.902 OF 2024 OF DISTRICT COURT & SESSIONS & MOTOR ACCIDENT CLAIMS TRIBUNAL, KASARAGOD PETITIONER/PETITIONER: MOHAMMED AGED 64 YEARS S/O MOIDEEN KUNHI(L), R/AT RIFAHIYA PALLI QUARTERS, CHERUMBA, PANAYAL KASARAGOD DISTRICT, KERALA, PIN - 671318. BY ADV P.RAKESH THAMBAN RESPONDENT/STATE/COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031. 2 STATE OF KERALA DRUG

DISPOSAL COMMITTEE, KASARAGOD REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031. SMT. PUSHPALATHA. M.K, SR.PP. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 1600 OF 2025 2

ORDER

Petitioners vehicle bearing Registration No.KL 60 P 5879 was seized in connection with Crime No.18 of 2024 registered at the Hosdurg Excise Circle Office, Kasaragod for offences punishable under Sections 20(b)(ii)(B), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act.

2. The crime is registered on the allegation that, 6 kgs

of Ganja was recovered from the rider of the motor cycle. The petitioner, who is not an accused in the crime, moved an application seeking interim custody of the vehicle, which the

learned Sessions Judge allowed as per Annexure A1 order

subject to conditions. The petitioner is aggrieved by the condition requiring him to furnish Bank guarantee of Rs.40,000/-.

3. Learned counsel for the petitioner submits that, in so far as the petitioner is not an accused and adequate conditions CRL.MC NO. 1600 OF 2025 3 to safeguard the interest of the prosecution having been imposed, the direction to furnish Bank guarantee is unjustified.

4. Learned Public Prosecutor points out that as per

Section 52A of the Narcotic Drugs and Psychotropic Substances Act, the vehicle is to be disposed of by the Drug Disposal Committee and interim release without adequate condition will affect the process.

5. No doubt, power to dispose the vehicle is vested with the Drug Disposal Committee, but the jurisdictional court can still grant interim custody. At the same time, it has to be ensured that the vehicle is kept intact and does not change

hands. For that the court below can direct the petitioner

also be made subject to the proceedings for disposal under Section 52A of the Narcotic Drugs and Psychotropic Substances CRL.MC NO. 1600 OF 2025 4 Act.

6. The Crl.M.C is hence disposed of by deleting the condition requiring the petitioner to furnish Bank guarantee of Rs.40,000/- and incorporating the following conditions;

The petitioner shall submit the original Registration Certificate and other documents pertaining to the vehicle before the court below. The interim custody granted to the petitioner will be subject to the proceedings by the Drug Disposal Committee and petitioner shall produce the vehicle, if so directed by the Committee. Sd/- V.G.ARUN JUDGE Sru

CRL.MC NO. 1600 OF 2025 5 APPENDIX OF CRL.MC 1600/2025 PETITIONERS ANNEXURES Annexure A1 TRUE COPY OF THE ORDER IN CRL.MC.NO.902/2024 DATED 25.09.2024

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