

David George vs State of Kerala

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Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./1409/2024

Appellant : David George

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA, 1945 BAIL APPL. NO. 1409 OF 2024 CRIME NO.146/2024 OF KOIPURAM POLICE STATION, PATHANAMTHITTA PETITIONER/ACCUSED NO.5: DAVID GEORGE AGED 66 YEARS SON OF K.T DAVID, KAVUMTHUNDIYIL HOUSE, CHIRAYIRAMBU P.O, MARAMON THOTTAPUZHASSERI VILLAGE, PATHANAMTHITTA DISTRICT, PIN - 689549 BY ADV C.C.ANOOP RESPONDENTS/COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 2 THE STATION HOUSE OFFICER KOIPURAM POLICE STATION, PATHANAMTHITTA

DISTRICT, PIN - 689548 OTHER PRESENT: SR PP SRI C S
HRITHWIK THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

The application is filed under Section 438 of the Code of Criminal Procedure, 1973, for an order of pre-arrest bail.

2. The petitioner is the fifth accused in Crime

No.146/2024 of the Koipuram Police Station, Pathanamthitta, registered against the accused for allegedly committing the offences punishable under Sections 409 & 420 r/w. Section 34 of the Indian Penal Code, 1860 (IPC, for short), and Sections 5, 23, 3 and 21 of the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act, for shot).

3. The prosecution case, in brief, is that: the accused

1 to 4 - the Directors of PRD MINI NIDHI Ltd., had collected deposits to the tune of Rs.5,25,000/- against the norms of the Reserve Bank of India from the defacto-complainant and failed to return the money to the defacto-complainant. The fifth accused is the manager of the company. Thus, the accused have committed the above offences.

4. Heard; Sri. C.C.Anoop, the learned counsel appearing for the petitioner, Sri.C.S.Hrithwik, the learned Senior Public Prosecutor appearing for the respondents.

5. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations levelled against him. He has been falsely implicated in the

crime. The petitioner was not in charge of the administration or management of the affairs of the company, but was only a paid employee. Nonetheless, the petitioner

was arrested in several cases and was released on bail. In addition to the above arrest and release, this Court has granted the petitioner orders of pre-arrest bail as per Annexures A2 and A3 orders in similar matters. At any rate, the custodial interrogation of the petitioner is not necessary and no recovery is to be effected. The petitioner is willing to cooperate with the Investigating Officer and abide by any stringent condition that may be imposed by this Court. Hence, the application may be allowed.

6. The learned Public Prosecutor strenuously opposed the application. Nonetheless, she conceded to the fact that the petitioner was only a paid employee of the company and this Court has granted the petitioner orders of pre-arrest bail by Annexures A2 and A3 orders.

7. On a consideration of the facts, the materials placed

on record, the rival submissions made across the Bar, particularly, taking note of the fact that the petitioner was only a paid employee of the company, the petitioner's custodial interrogation is not necessary and that this Court has granted the petitioner orders of pre-arrest bail in similar matters as per Annexures A2 and A3 orders, I am inclined to allow the application, but subject to stringent conditions.

In the result, the application is allowed subject to the following conditions: i) The petitioner is directed to surrender before the Investigating Officer within one week from today. ii) In the event of the petitioner's arrest, the Investigating Officer shall produce him before the jurisdictional court on the date of surrender itself. iii) On such production, the jurisdictional court shall

release the petitioner on bail on him executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties for the like amount each, to the satisfaction of the jurisdictional court; iv) The petitioner shall co-operate with the investigation and make himself available for interrogation as and when the Investigating Officer directs; v) The petitioner shall not intimidate witnesses or interfere with the investigation in any manner; vi) The petitioner shall not get involved in any other

offence while on bail. vii) In case of violation of any of the conditions mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

viii) Applications for deletion/modification of the bail

conditions shall also be filed before the court below. ix) Needless to mention, it would be well within the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* and another [2020 (1) KHC 663]. x) Any observation made in this order is only for the purpose of deciding the application and the same shall not be construed as an expression on the merits of the case to be decided by the Courts. Sd/- C.S.DIAS JUDGE

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