

Arjun. B, vs State of Kerala,

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Bail Appl./5111/2024

Appellant : Arjun. B,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946
BAIL APPL. NO. 3371 OF 2024 CRIME NO.880/2022 OF Venjaramoodu
Police Station, Thiruvananthapuram PETITIONER/ACCUSED NO 11:
DENIL CYRIL, AGED 28 YEARS S/O CYRIL M S,RAJESH
BHAVAN,THILAK NAGAR, NALANCHIRA
P.O,THIRUVANANTHAPURAM, NOW R/AT SRAVAN
VEEDU,KUTTIYANI, PATHALACODE
VEMBAYAM,THIRUVANTHPURAM, PIN - 695615 BY ADVS.
S.RAJEEV V.VINAY M.S.ANEER PRERITH PHILIP JOSEPH
ANILKUMAR C.R. K.S.KIRAN KRISHNAN NOURIN S. FATHIMA

RESPONDENT/STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 SRI.PREMCHAND R. NAIR, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.07.2024 ALONG WITH B.A NO. 5111/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946 BAIL APPL. NO. 5111 OF 2024 CRIME NO.880/2022 OF Venjaramoodu Police Station, Thiruvananthapuram

PETITIONER/ACCUSED NO 16: ARJUN. B, AGED 23 YEARS S/O. BIJU, SRUTHILAYAM, SIVAKRISHNANPURAM, MUDAPURAM P.O.,CHIRAYINKEEZHU TALUK, THIRUVANANTHAPURAM DISTRICT., PIN - 695304 BY ADV SHAJIN S.HAMEED
RESPONDENT/STATE: STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM., PIN - 682031 SRI.PREMCHAND R.NAIR, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.07.2024, ALONG WITH B.A NO.3371/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

These are applications filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner in Bail Application No.3371/2024 is the

11th accused in Crime No.880/2022 of Venjaramoodu Police Station whereas the petitioner in Bail Application No.5111/2024 is the accused No.16 in the very same crime. The petitioner in B.A No.3371/2024 was arrested on 11.01.2024 whereas the petitioner in B.A No. 5111/2024 was arrested on 21.03.2024. Initially, the crime

was registered for the offence punishable under Section 20(b)(ii)(c) of the NDPS Act, and in the final report submitted wherein offences under 8(c), 25, 27A, 29 and 30 of the NDPS Act were also incorporated.

3. The prosecution case is that, on 15.07.2022, based on information received, an inspection was conducted in the house of the 1st accused and recovered 200.6 K.Gs of ganja in 33 packets and an amount of Rs.51,700/-. On the basis of the information furnished by the 1st accused, the accused Nos. 2 to 4

were arrested. Later during the course of investigation, the involvement of the petitioners herein were also revealed and accordingly they were implicated as the accused Nos.11 and 16. As part of the investigation, they were arrested on the respective dates mentioned above and since then, they have been under judicial custody. These applications are submitted by the petitioners in such circumstances.

4. Heard, Sri. S.Rajeev, the learned counsel appearing for the petitioner in B.A No.3371/2024, Sri.Shajin S. Hameed, the learned counsel appearing for the petitioner in B.A No.5111/2024 and Sri.Premchand R. Nair, the learned Senior Public Prosecutor, appearing for the State.

5. The learned counsels appearing for the petitioners

contend that the petitioners are innocent of all the allegations and the materials placed on record are not sufficient to make out the offences against the petitioner.

6. The learned Public Prosecutor opposes the said applications by pointing out that, there are ample materials indicating the involvement of the petitioners and the quantity of the contraband article involved is huge. Therefore, the learned Public Prosecutor seeks dismissal of the applications.

7. I have gone through the records. As far as the 11 th accused, the petitioner in B.A No.3371/2024 is concerned, the main allegation against the petitioner is that, he had certain

monetary transactions of Rs.62,000/- with CW103 and thereafter he transferred an amount of Rs.49,500/- to M/s K.Anand Rao Enterprises in Odisha, which was intended to be transferred to the 5th accused. Apart from the above, there is further allegation that he transferred an amount of Rs.20,000/- to the 10th accused. On carefully going through the records, it is evident that apart from these monetary transactions there are no other materials showing the involvement of the petitioner. It is also discernible from the final report submitted by the Police that, the certified copy of the call data records of the petitioner has not been so far procured as well.

8. As far as the petitioner in B.A No.5111/2024, the 16 th

accused is concerned, the allegations pertain to the monetary transactions of Rs.15,000/- and Rs.14,500/- through the bank account of the mother of the petitioner, to the wife of the 15 th accused and the friend of the 15th accused, as instructed by the 15th accused. Besides, there is also an allegation that, as instructed by the 15th accused the petitioner had transferred a further sum of Rs.50,000/- through the account of the mother of

the petitioner to the 1st accused. In addition to that, there is also an allegation that, the 15 th accused gifted a mobile phone having a value of Rs.1,49,000/- to the petitioner herein as well. Further, there is also an allegation that there were frequent contacts through the mobile phone of the petitioner with the 15 th accused and the number of calls amounting to 302 during the period from 08.06.2022 to 17.07.2022.

9. The case of the 16 th accused is that, the 15 th accused is his neighbor and he was a person who was in regular contact with the petitioner. It is also his case that, the transactions referred to above has nothing to do with the purchase of the contraband articles.

10. After carefully going through the materials placed on

record, I find that, apart from certain monetary transactions and phone calls, there are no other materials. Merely because of the aforesaid reasons, I do not find it

proper to keep them under

detention as those are all matters to be established during the course of the trial. It is to be noted in this regard that, none of the petitioners have any previous antecedents of getting involved in offences under the NDPS Act as well. Therefore, I am convinced that there are sufficient grounds to record the satisfaction of the dual conditions for bail contemplated under section 37 of the NDPS Act.

In such circumstances, taking note of the aforesaid aspects, I do not find it necessary to keep the petitioners under detention any further and therefore, bail can be granted to the petitioners on stringent conditions to ensure their cooperation with the trial. Accordingly, these bail applications are allowed on the following conditions:- i) The petitioners shall be released on bail on executing bonds for Rs. 1,00,000/- (Rupees One Lakh only) each with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Court.

ii) The petitioners shall fully cooperate with the investigation. iii) The petitioners shall appear before the Investigating Officer between 10.00 a.m and 11.00 a.m every Wednesday until the filing of the final report. iv) The petitioners shall also appear before the Investigating Officer as and when required. v) The petitioners shall not commit any offence of similar nature while on bail. vi) The petitioners shall not make any attempt to contact

any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation. vii) The petitioners shall not leave India without the permission of the trial Court. viii) The petitioners shall surrender their passports before the jurisdictional court, and in case they are not issued with the passports, an affidavit to that effect shall be submitted before the court concerned. In case of violation of any of the above conditions, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any submitted, and pass appropriate orders in accordance with the law.

Sd/- ZIYAD RAHMAN A.A JUDGE rpk APPENDIX OF BAIL APPL. 3371/2024 PETITIONER ANNEXURES Annexure I ACCUSED COPY OF THE ORDER PASSED BY THE ADDL. SESSIONS JUDGE-I, THIRUVANANTHAPURAM DATED 20.02.2024 IN CRL MP NO 1688/2024 APPENDIX OF BAIL APPL. 5111/2024 PETITIONER ANNEXURES Annexure-A PHOTOCOPY OF THE FIR IN CRIME NO.880/22 OF VENJARAMOODU POLICE STATION. Annexure-B PHOTOCOPY OF THE REMAND REPORT OF THE PETITIONER IN CRIME NO. 880/2022 OF VENJARAMOODU POLICE STATION.

Annexure-C FREE COPY OF THE ORDER DATED 30/04/2024 IN (VACATION JUDGE).

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