

Murugan, vs State of Kerala,

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Court : Kerala Orders

Decided On : Aug-02-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./5625/2024

Appellant : Murugan,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 2ND DAY OF AUGUST 2024 / 11TH SRAVANA, 1946 BAIL APPL. NO. 5625 OF 2024 CRIME NO.685/2013 OF PALA POLICE STATION, KOTTAYAM PETITIONER: MURUGAN, AGED 50 YEARS SUBRAMANNYAN KOVIL, THERUVU, CUMBAM,TAMILNADU, PIN - 625516 BY ADVS. BOBBY GEORGE JOY C. PAUL ABHILASH MURALEEDHARAN NOBLE GEORGE REEJO JOHNSON

RESPONDENT: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 OTHER PRESENT: SR PP SMT NEEMA T V THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02.08.2024, THE COURT ON THE SAME DAY PASSED THE

FOLLOWING: -:2:- Dated this the 2nd day of August, 2024

ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the first accused in Crime No.685/2013 of the Pala Police Station, Kottayam, which is registered against the accused for allegedly committing the offences punishable under Sections 20(b)(ii)(B) & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, NDPS Act).

2. The gist of the prosecution case is that: on

12.05.2013, the accused Nos.1 & 2 had hatched a conspiracy and brought Ganja from the State of Tamil Nadu. While they were transporting the contraband, the Detecting Officer and party intercepted the accused and seized 3.30 Kgs. of dried Ganja from their possession. The accused were arrested on the spot with the contraband article. Thus, the accused have committed

-:3:- the above offences.

3. It is further alleged that the accused Nos.1 & 2

were produced before the Jurisdictional Magistrate on 13.05.2013 and were remanded to judicial custody. Subsequently, they were enlarged on bail on 17.07.2013. Later, the case was committed to the Court of Session and numbered as S.C.No.15/2014. But, both the accused absconded, and the case was transferred to the Long

Pending Register and numbered as L.P.No.6/2015. Subsequently, the second accused was arrested, and the case against him was reopened and refiled as S.C. (NDPS)No.18/2019. The second accused was convicted and sentenced. Yet, the first accused was still at large. It is only on 17.06.2024, the first accused was arrested and remanded to judicial custody. The case against him

was refiled as S.C.(NDPS)No.54/2014. Hence, the present application.

4. Heard; Sri. Bobby George, the learned counsel -:4:- appearing for the petitioner and Smt.Neema T.V., the learned Senior Public Prosecutor.

5. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the

accusations levelled against him.

He has been fal

Section 37 of the NDPS Act does not apply to the facts of the case. The petitioner has been in judicial custody for the last more than 1 months, the investigation in the case was complete more than a decade back, and the recovery has been effected. Now, the trial in the case has commenced. Therefore, the petitioners further detention is unnecessary. Hence, the petitioner may be released on bail.

6. The learned Public Prosecutor opposed the application. She submitted that the petitioner was absconding for a decade. It is after a strenuous effort -:5:-

made by the Investigating Officer, that the petitioner was traced from his hideout and arrested. Now, the trial in the case has commenced, and the same would be completed shortly. If the petitioner is let off on bail, there is every likelihood of him fleeing from justice and the trial again getting perpetually procrastinated. Therefore, the application may be dismissed.

7. When the application came up for

consideration on 22.07.2024, this Court called for a report from the Trial Court, to ascertain the status and the reasonable time period that would be required to dispose of S.C.(NDPS)No.54/2014.

8. Pursuant to the said order, the learned Special

Judge, by communication dated 25.07.2024, has informed this Court that the trial in the case has commenced and PW1 was examined on 22.07.2024. The case now stands posted to 30.07.2024. The Trial Court would dispose of S.C.(NDPS)No.54/2014 on or before -:6:- 10.09.2024.

9. On a perusal of the materials placed on

record, it is evident that even though the petitioner was enlarged on bail at the trial stage, he absconded. The crime is of the year 2013. The petitioner was enlarged on bail at the crime stage, but he absconded. It is after a decade that the petitioner was arrested on 17.06.2024. In the mean time, the case against the second accused has ended in the conviction. The antecedents of the petitioner does not inspire confidence in this Court to enlarge him on bail and attempt another experiment. This Court is certain that if the petitioner is enlarged on bail, there is every likelihood of him fleeing from justice again, and the conclusion of the case getting protracted. Due to the sheer laches and absconsion of the petitioner, a sessions case has been protracted for a decade. The petitioner cannot take advantage of his own wrong after fleeing from justice. I do not find any bona fides in the

-:7:- present application. In view of the report of the Trial Court, that the case would be disposed of on or before 10.09.2024, which is hardly one month from today, I am of the firm view that the petitioner has to face a custodial trial. In the light of the above observations, the bail application is dismissed. The petitioner would have to

face a custodial trial of S.C.(NDPS)No.54/2014. Nonetheless, taking into account the report of the Trial Court, the Trial Court is directed to consider and dispose of S.C.(NDPS)No.54/2014, in accordance with law, as expeditiously as possible, at any rate, on or before 10.09.2024. The Registry is directed to communicate a copy of this order to the Trial Court.

Sd/- C.S.DIAS,JUDGE DST/02.08.24 //True copy// P.A. To Judge

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