

Gopakumar vs State of Kerala

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Court : Kerala

Decided On : Apr-25-2023

Judge : Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : Bail Appl./3002/2023

Appellant : Gopakumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR
TUESDAY, THE 25TH DAY OF APRIL 2023 / 5TH VAISAKHA, 1945
BAIL APPL. NO. 3002 OF 2023 (CRIME NO.230/2023 OF
NOORANADU POLICE STATION, ALAPPUZHA DISTRICT)

PETITIONER/ACCUSED NO.2 GOPAKUMAR, AGED 40 YEARS, S/O
RAMACHANDRAN PILLAI, SIJI BHAVANAM, PADINJARATTAM MURI,
SOORANADU NORTH VILLAGE, ALAPPUZHA DISTRICT., PIN -
690504 BY ADV SERGI JOSEPH THOMAS RESPONDENTS/STATE: 1
STATE OF KERALA REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -, PIN - 682031 2 STATION

HOUSE OFFICER NOORANADU POLICE STATION, NOORANADU
ALAPPUZHA DISTRICT. PIN - 690504 OTHER PRESENT: SR PP D.G.
MANU THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 25.04.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: -:2:-

P.G. AJITHKUMAR, J.

===== B.A.No. 3002 of 2023 -----

----- Dated this the 25th day of April,2023

ORDER

This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. The petitioner is the accused in Crime No.230 of 2023 of Nooranadu Police Station. He allegedly had committed the offences punishable under Section 20(b)(ii)

(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, the NDPS Act)

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The prosecution allegation is that, on 12.03.2023,

while the police party was conducting routine vehicle checking, the vehicle driven by the petitioner was stopped, the first accused who was sitting in back was found in -:3:- possession of 1235 grams of ganja in a disposable cover and 108 grams of ganja was found from the possession of the petitioner who is the second accused. Another 125 grams of Ganja was found beneath the seat of the scooter. Thereby petitioner and the first accused had said to have committed the offence alleged against them.

5. The petitioner would contend that he did not involve in the alleged crime and without any material or

evidence, he has been implicated in the crime. He is in no way a justification for his further detention.

6. The learned Public Prosecutor would submit that

considering the seriousness of the offence and the possibility of interfering with the investigation by the petitioner in the event of his release on bail, this petition deserve only to be dismissed.

7. Having heard the learned counsel appearing for the petitioner and the learned Public Prosecutor, and :-4:-

considering the nature and gravity of the offence, further detention of the petitioner is appeared unnecessary. The petitioner, who is the second accused along with the first accused were arrested on 12.03.2023, while they were riding in a scooter. The petitioner was riding the scooter.

He has in possession of 108 grams of ganja. The first accused had in possession of 1235 grams of and 125 grams of ganja was concealed in the scooter. Since both of them were travelling together in the scooter, their involvement in carrying the whole quantity of ganja cannot be ruled out. Therefore, both should be answerable to the whole quantity in the light of Section 29 of the NDPS Act.

8. Petitioner has been in custody since 12.03.2023. The learned Public Prosecutor would submit that he has not involved in any other crime. It appears that the

investigation of the crime has been progressed considerably. I am of the view that the bar under Section 37(1)(b) of the NDPS Act stands in the way of granting bail to the petitioner. In the light of those facts, I am of the :-5:- view that the petitioner is entitled to be released on bail on strict conditions. In the result, the bail application is allowed and the petitioner is granted bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the learned Magistrate, subject to the following

conditions:

- (i) He shall not influence or intimidate witnesses or tamper with evidence;
- (ii) He shall appear before the investigating officer as and when called for; and
- (iii) During the bail period, he shall not get involved in any offence.
- (iv) The petitioner shall surrender his passport before the Investigating Officer and if he has no passport, an affidavit to that effect should be submitted.
- (v) He shall not leave the local limits of Alappuzha District without the prior permission from the jurisdictional court. -:6:- In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court. Sd/- P.G. AJITHKUMAR,JUDGE DST/25.04.23
//True copy/ P.A.To Judge

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