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Sooraj J vs State of Kerala Represented by the Public Prosecutor

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Court : Kerala Orders

Decided On : Jul-20-2023

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

Appeal No. : Bail Appl./3295/2023

Appellant : Sooraj J

Respondent : State of Kerala Represented by the Public Prosecutor

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. THURSDAY, THE 20TH DAY OF JULY 2023 / 29TH ASHADHA, 1945 BAIL APPL. NO. 3295 OF 2023 CRIME NO.193 OF 2023 OF TOWN NORTH POLICE STATION, PALAKKAD PETITIONER/ACCUSED NO.6: SOORAJ J AGED 31 YEARS S/O JAYAPRAKASH, SOORAJ NIVAS, PUNUKKANOOR, CHERUKARAMOOLA, KOTTAMKARA VILLAGE, PERUMPUZHA P.O. KOLLAM, PIN - 691504 BY ADV SUMESH CHAKKADATH SUBRAMANIAN C S RESPONDENTS/STATE AND INVESTIGATING OFFICER: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF COURT, ERNAKULAM, PIN - 682031 2 THE STATION HOUSE OFFICER TOWN NORTH

POLICE STATION PALAKKAD, PIN - 678001 THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O R D E R

This is an application filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the 2nd accused in Crime No.193/2023

of Town North Police Station, Palakkad. The offences alleged against the petitioner and the other accused are under Sections 22(c) r/w. 29 of the Narcotic Drugs And Psychotropic Substances Act, 1985 (for short, 'the Act').

3. The prosecution case is that on 17.02.2023 at Palakkad

Railway Station, accused No.1 was found in possession of 111.64 gms of MDMA. During the course of investigation, it was revealed that the said contraband article was brought by the first accused from Bengaluru for the purpose of the petitioner. Accordingly the petitioner was implicated as the 2 nd accused and the petitioner was arrested on 24.03.2023 while he was under detention in connection with Crime No.117/2023 of Kollengode Police Station. Since then, the petitioner has been under detention. This application for regular bail is submitted, in such circumstances.

4. Heard Sri.C.S. Sumesh, learned counsel appearing for the petitioner and Sri.C.S.Hrithwik, learned Senior Public Prosecutor appearing for the State.

5. The learned counsel for the petitioner submits that the

petitioner is innocent of all the allegations. It is pointed out that no contraband articles were recovered from the possession of the petitioner and there is nothing to indicate his role in the commission of the offences. The petitioner has been in judicial custody from 24.03.2023 and there is no purpose in keeping him under judicial detention.

6. On the other hand, the learned Public Prosecutor

opposes the said application by pointing out that, the role of the petitioner is clearly established from the materials which they could collect during the course of investigation. Besides, the confession statement of the first accused, there are call data records and evidences of transferring the amounts for the purchase of contraband articles. The petitioner is also involved in another crime i.e. crime No.117/2023 wherein similar nature of offences for transporting narcotic drugs in commercial quantity was involved. Therefore, the dismissal of the application was sought.

7. I have gone through the records. It is evident that, there are certain materials which would indicate the role of the

petitioner. The specific case of the prosecution is that the first accused brought the contraband article for the purpose of the second accused. They rely on the call data records and the bank transactions between the parties. The matter is even now under investigation. The quantity involved is commercial and hence rigour under Section 37 of the Act would come into play. The petitioner is also having criminal antecedents.

8. In such circumstances, I do not find any justifiable reasons to record the satisfaction of the dual conditions contemplated under Section 37 of the Act. In such circumstances, I do not find any merit in this application.

Accordingly, this Bail Application is dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE shg APPENDIX OF BAIL APPL. 3295/2023 PETITIONER ANNEXURES Annexure1 TRUE COPY OF THE ORDER IN CMP 1372/2023 OF SESSION COURT PALAKKAD DATED 18/04/2023

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