SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Biju vs State of Kerala

Biju vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1357656

Court : Kerala Orders

Decided On : Jun-05-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./3372/2023

Appellant : BIJU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS MONDAY, THE 5TH DAY OF JUNE 2023 / 15TH JYAISHTA, 1945 PETITIONER/ACCUSED: BIJU AGED 53 YEARS S/O.SEBASTIAN, KODIYAN HOUSE, KOTTAYIL KOVILAM KARA, KIZHAKKUMPURAM, CHENDAMANGALAM, NORTH PARAVUR, ERNAKULAM DISTRICT., PIN - 683 512. BY ADV NIREESH MATHEW RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682 031. SRI. P G MANU - SR. PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

... .. Dated this the 5th day of June, 2023

ORDER

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

2. Petitioner is the accused in Crime No.17/2023 of North Paravur Excise Range Office, Ernakulam alleging offences punishable under Sections 55(g) of the Abkari Act.

3. According to the prosecution, on 11.3.2023 at 6.20 P.M the

Excise Inspector conducted a search outside the boundary wall of the residence of the accused, and allegedly seized 165 litres of wash, intended for distilling arrack.

4. Sri. Nireesh Mathew, the learned counsel for the petitioner

contended that the prosecution allegation are false and the incident as alleged had not occurred. It was further submitted that petitioner has been framed in the case and that he has no involvement or connection to the alleged contraband seized. The learned counsel also asserted that the quantity alleged to have been seized from outside the residence of the petitioner is a figment of imagination of the Excise Inspector and that the petitioner is totally innocent. It was also submitted that the petitioner is a chronic heart patient and that he is under medical treatment and therefore if he is subjected to arrest, he will be put to irreparable prejudice.

5. Sri. P.G Manu, the learned Public Prosecutor opposed the

application and submitted that prosecution allegations are serious and that the custodial interrogation of the petitioner is essential. It was further submitted that petitioner is a habitual offender having involved himself in several other similar crimes.

6. Having considered the rival contentions and having

perused Annexure 2, medical report of the petitioner, I am of the view that this is not a fit case for grant of anticipatory bail. Petitioners antecedents and the seizure of contraband adjacent to his compound are all matters that stare against him. Custodial interrogation is essential in a case of this nature.

7. Accordingly, I dismiss the application. However if the

petitioner surrenders before the investigating officer within 10 days from today, he shall be subjected interrogation and thereafter be produced before the jurisdictional court. In the event of any application for bail being filed by the petitioner, the same shall be considered by the jurisdictional court, in accordance with law, without much delay.

Sd/- BECHU KURIAN THOMAS JUDGE jm APPENDIX OF BAIL APPL. 3372/2023 PETITIONER ANNEXURES Annexure 1 A TRUE PHOTOCOPY OF THE DISCHARGE CARD EVIDENCING THE HEART CONDITION OF THE PETITIONER DATED 14.07.2021 ISSUED BY THE MEDICAL OFFICER, GOVT. MEDICAL COLLEGE, ERNAKULAM.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com