

David George vs State of Kerala

David George vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1376959

Court : Kerala

Decided On : Aug-01-2023

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

Appeal No. : Bail Appl./6172/2023

Appellant : David George

Respondent : State of Kerala

Judgement :

BAIL APPL. NO. 6162 OF 2023 CRIME NO.1058/2022 OF KOIPURAM POLICE STATION, S/O K.T DAVID, KAVUMTHUNDIYIL HOUSE, CHIRAYIRAMBU P.O, MARAMON THOTTAPUZHASSERI VILLAGE, PATHANAMTHITTA DISTRICT, PIN - 689549 KOIPURAM POLICE STATION, PATHANAMTHITTA DISTRICT, PIN - 689548 SMT. SREEJA V., SR. P.P. 01.08.2023, ALONG WITH Bail Appl..6163/2023, 6164/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2 : BAIL APPL. NO. 6163 OF 2023 CRIME NO.1063/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SMT. SREEJA V., SR. P.P. :3 : BAIL APPL. NO. 6164 OF 2023 CRIME NO.1066/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SMT.

SREEJA V., SR. P.P. :4 : BAIL APPL. NO. 6166 OF 2023 CRIME NO.1068/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SRI. C.S. HRITWIK, SR P.P. :5 : BAIL APPL. NO. 6168 OF 2023 CRIME NO.1064/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SMT. SEETHA S., P.P. :6 : BAIL APPL. NO. 6172 OF 2023 CRIME NO.1071/2022 OF KOIPURAM POLICE STATION, DISTRICT., PIN - 689548 SMT. SREEJA V., SR. P.P. :7 : BAIL APPL. NO. 6173 OF 2023 CRIME NO.1067/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SMT. SREEJA V., SR. P.P. :8 : BAIL APPL. NO. 6174 OF 2023 CRIME NO.1069/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SMT. SREEJA V., SR. P.P. :9 : BAIL APPL. NO. 6175 OF 2023 CRIME NO.1059/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SRI. C.S. HRITWIK, SR. P.P. : 10 : BAIL APPL. NO. 6176 OF 2023 CRIME NO.1062/2022 OF KOIPURAM POLICE STATION, DISTRICT, PIN - 689548 SRI. C.S. HRITWIK, SR. P.P. : 11 :

ORDER

Dated this the 1st day of August, 2023 [Bail Appl. Nos.6162/2023, 6163/2023, 6164/2023, 6166/2023, These bail applications are filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. These bail applications are submitted by the accused

No.5 in the respective crimes registered by Koipuram Police Station, Pathanamthitta. The offences alleged against the petitioner are under Sections 420 r/w 34 of the Indian Penal Code, and also under Sections 5 r/w 23, 25(1) and 3 r/w 21(2)(3) of the Banning of Unregulated Deposit Schemes (BUDS) Act.

3. The allegation against the petitioner and other accused

in all the crimes above is that the accused persons collected huge amounts from the respective defacto complainants with a promise to return the same with a high interest rate. However, they neither provided the returns as offered, and the

amount was also not refunded. Various complaints were submitted by a large number of persons against the accused persons, and crimes were registered : 12 : accordingly. It is pointed out that the petitioner has been in custody since 11.01.2023 in connection with some other crimes, even though the formal arrest in all these cases except B.A. Nos.6164/2023 and 6168/2023 was recorded on 26.06.2023. In B.A. Nos. 6164/2023 and 6168/2023, the arrest of the petitioner was recorded on 05.07.2023.

4. The contention put forward by the learned counsel for

the petitioner is that he was only a financial manager of the company which accepted the deposits, and he being an employee, was not having any control over the affairs of the said company. It is further submitted that the petitioner is falsely implicated in the above said crimes and also that he is prepared to abide by any of the conditions imposed. It is further pointed out that, in two of the cases registered against him, the petitioner was granted bail as per

orders dated 12.01.2023 in B.A. No.10353/2022 and the order

dated 03.02.2023 in B.A. No.487/2023 by this Court.

5. On the other hand, the learned Public Prosecutor

opposed the aforesaid applications and submitted that, as against the petitioner now, more than 150 cases had been registered, and huge amounts were misappropriated by the petitioner, which was collected from a large number of persons offering a high rate of : 13 : interest. It is pointed out that if the petitioner is released on bail, he is likely to abscond, which will affect the investigation of the cases and the trial to be conducted.

6. I have gone through the records and heard the

contentions raised for both sides. There are indeed allegations against the petitioner, and he is involved in several other cases of similar nature as well. However, the specific contention put forward by the learned counsel for the petitioner is that, he was only one of the employees of the institution which

collected the deposits, and he had no control over the affairs of the same. It is also pointed out that the petitioner resigned from the service of the said company one year before the registration of the said offences. After considering all the relevant aspects and also taking note of the fact that the petitioner has been in custody for the past more than five months (in connection with the other crimes and for more than two months in these crimes), I am of the view that bail can be granted to the petitioner. While taking this view, I have also taken note of the orders of bail passed by this Court in B.A. Nos.487/2023 and the investigation has progressed substantially, and further incarceration of the petitioner appears to be not necessary. As far : 14 : as the apprehension voiced by the learned Public Prosecutor is concerned, I am of the view that the same can be addressed by incorporating appropriate conditions to ensure the presence of the petitioner and also his cooperation with the investigation. Accordingly, these bail applications are allowed and the petitioner is directed to be released on bail subject to the following conditions:-

(i) The petitioner shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall fully cooperate with the investigation.

(iii) The petitioner shall appear before the Investigating Officer between 10.00 a.m and 11.00 a.m every Saturday until the filing of the final report.

(iv) The petitioner shall also appear before the Investigating Officer as and when required.

(v) The petitioner shall surrender his passport before the jurisdictional court. If the petitioner does not have a passport, he shall execute an affidavit to that effect and file the same before the said court.

(vi) The petitioner shall not commit any offence of like nature while on bail. : 15 :

(vii) The petitioner 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. (viii) The petitioner shall not leave India without the permission of the trial Court. 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, and pass appropriate orders in accordance with law.
Sd/- ZIYAD RAHMAN A.A. JUDGE ncd

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