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Killo Subhrao vs State of Kerala

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Court : Kerala Orders

Decided On : Aug-16-2023

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

Appeal No. : Bail Appl./6837/2023

Appellant : Killo Subhrao

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. WEDNESDAY, THE 16TH DAY OF AUGUST 2023 / 25TH SRAVANA, 1945 Crime No.245/2022 of Koratty Police Station. PETITIONER/ACCUSED: KILLO SUBHRAO AGED 30 YEARS S/O.RAMANNA, 12, CHITHRA VILAS, RANGASHEELA, VISHAKHAPTTANAM DISTRICT, ANDRA PRADESH, PIN - BY ADV N.L.BITTO

RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 OTHER PRESENT: SR.PP: SRI. C.S HRITHWIK THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16.08.2023, THE COURT ON THE SAME DAY DELIVERED

THE FOLLOWING: ZIYAD RAHMAN, A.A, J BA No. 6837 of 2023 Dated this the 16th day of August, 2023

ORDER

This is an application for regular bail.

2. The petitioner is the 9th accused in Crime No.245/2022 of Koratty Police Station. The said crime was registered for the offences punishable under Sections 20(b), (ii) C, 27A & 29 of NDPS Act.

3. The prosecution case is that on 2.3.2022 at about 10.45 pm, the

police seized 10.730 grams of Hashish oil from two cars bearing Registration Nos.KL-08-Y-2626 and TN-32-U-4199 and accused Nos 1 to 3, were arrested from the spot. During the course of investigation, it was revealed that, other accused persons were also involved in the said transactions. As against the petitioner herein, it was alleged that, it was he who supplied the said contraband article, after collecting amount from the accused Nos.1 to 3.

4. The crime was registered in such circumstances and the petitioner was arrested on 03.03.2023. Since then, he has been under judicial detention. This application for regular bail is submitted in such circumstances.

5. Heard Sri.N.L.Bitto, the learned counsel appearing for the petitioner and Sri.Hrithwik C.S, the learned Senior Public Prosecutor appearing for the State.

6. The learned counsel for the petitioner submits that, the petitioner

is innocent of all the allegations and he was falsely implicated in the said case. It is also pointed out that there are absolutely no materials indicating the involvement of the petitioner in the transaction. He was implicated only due to the fact that the petitioner had certain monetary transactions with some of the accused persons and according to the learned counsel for the petitioner that is

not sufficient to implicate him as an accused for the offences. Now the petitioner has been in judicial custody since 03.03.2023 and all other accused were already

released on bail. Therefore, there is no purpose in keeping the petitioner in judicial detention any further, contends the learned counsel.

7. The learned Public Prosecutor opposes the said application by

pointing out that, the petitioner is the main culprit in the transactions. The other accused procured the contraband article from the petitioner and he was a regular supplier of the contraband article. The petitioner is also involved in Crime No.77/2022 of Arakuvali Police Station for the offences under Section 20 (b) (ii) C of NDPS Act. In such circumstances, dismissal of the bail application is sought.

8. I have gone through the records. It is true that the other accused were

arrested and released on bail, in which accused Nos.1 to 3 were released on statuary bail. As regards the other accused persons, they were released on bail, taking note of the fact that they did not have any criminal antecedents. However, as regards the petitioner is concerned, the prosecution case is that, he is the main supplier of the contraband article. As rightly pointed out by the learned Public Prosecutor, the records would indicate that the petitioner had

collected a total amount of Rs.1,45,000/- from the accused persons and supplied the contraband articles, which is in huge quantity. Besides the same, the petitioner has also criminal antecedents and he is involved in a case of similar nature. The quantity involved comes under the category of commercial quantity and hence the rigour under Section 37 of the NDPS Act is applicable. When taking note of the materials placed on record, it can be seen that there is a prima facie case against the petitioner and he has criminal antecedents as

well. In such circumstances, I am of the view that, the dual conditions contemplated under Section 37 of the NDPS Act are not satisfied in this case. Therefore, merely because of the reason that the petitioner has been in custody since 3.3.2023, bail cannot be granted to him. The fact that other accused persons were granted bail also cannot be a ground, to enable the petitioner to get bail. In such circumstances, I do not find any merit in this bail application. Accordingly, this bail application fails and is dismissed. sd/- ZIYAD RAHMAN, A.A, JUDGE R.AV

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