

Khais, vs State of Kerala

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Court : Kerala Orders

Decided On : Aug-23-2023

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./7245/2023

Appellant : KHAIS,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 23RD DAY OF AUGUST 2023 / 1ST BHADRA,
1945 BAIL APPL. NO. 7245 OF 2023 CRIME NO.11/2021 OF Tirur
Excise Range Office, Malappuram PETITIONER/ACCUSED NO.2:
KHAIS,AGED 28 YEARS S/O. MOHAMMED, ASSAINARPURAKKAL
HOUSE,KUTTAYI P.O., MANGALAM, TIRUR, MALAPPURAM
DISTRICT, PIN - 676561 BY ADV C.M.MOHAMMED IQUABAL
RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM, PIN -
682031 2 THE EXCISE RANGE OFFICER, TIRUR EXCISE RANGE
OFFICE, TIRUR P.O., MALAPPURAM DISTRICT, PIN - 676101 SR.PP

SRI.SANAL P.RAJ THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.7245 of 2023 2

VIJU ABRAHAM, J.

B.A.No. 7245 of 2023 Dated this the 23rd day of August, 2023

ORDER

This is an application for regular bail.

2. Petitioner is the 2nd accused in Crime No. 11 of 2021 of Excise Range Office, Tirur, registered alleging commission of offence punishable under Section 20(b)(ii)C of the Narcotic Drugs and Psychotropic Substances Act.

3. The prosecution case is that, based on the information received,

the Excise Circle Inspector, Tirur conducted a search in the 2nd room at the 1st floor of the building belonging to one Rafeeq, Mudikkal house, Alungal desom and seized 40.5 kgs of ganja.

4. Petitioner submits that he was arrested on 07.05.2022 and that

he was made an accused on the basis of the confession statement that one Subeesh had transferred a sum of Rs.50,000/- to his account through the account of another person in connection with the offence alleged. Though the petitioner moved an application for bail before the Special Court for NDPS Act cases, Manjeri, the same was rejected. Applications for bail filed before this Court were rejected as per Annexures A2 to A5 orders. He further submits that the investigation is over and charge sheet has been filed.

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5. Learned Public Prosecutor opposed the application for bail

mainly contending that 40.5 kgs of ganja was seized from the possession of the 1st accused. The statement of the 1st accused revealed that it was the petitioner who has given the contraband to the 1st accused and it is further revealed that on verification of the call records, it is found that the petitioner had constant contact with the 1st accused and by verifying the tower location, both of them were found nearby the building in which the contraband was kept. It is also submitted by the learned Public Prosecutor that an amount of Rs.49,000/- was transferred by the 1st accused to the account of the petitioner and the same was revealed on verification of the bank account details. It is also submitted by the Public Prosecutor that towards commission, Rs.50,000/- was also transferred to the account of the petitioner through the account of one Subeesh and based on this, learned Public Prosecutor submitted that petitioner had an active role in the commission of alleged offence. Learned Public Prosecutor upon instructions further submitted that the petitioner is involved in various other criminal cases of Tirur Police Station, ie., Crime Nos.349 of 2018, 334 of 2018, 351 of 2018, 1327 of 2021, 42 of 2020 and 961 of 2020 and also in an NDPS crime No.12 of 2021 of Kuttippuram Excise Range Office.

Considering the fact that the quantity of contraband involved is huge and that the petitioner is involved in other crimes including one B.A.No.7245 of 2023 4 under the NDPS Act, I am not inclined to grant bail to the petitioner. The bail application is accordingly dismissed. Sd/- VIJU ABRAHAM JUDGE cks

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