

Nithin P vs State of Kerala

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Court : Kerala

Decided On : Aug-25-2023

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

Appeal No. : Bail Appl./7310/2023

Appellant : Nithin P

Respondent : State of Kerala

Judgement :

B.A.No.7310/23 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 BAIL
APPL. NO. 7310 OF 2023 AGAINST THE ORDER/JUDGMENT CMP
1875/2023 OF JUDICIAL MAGISTRATE OF FIRST CLASS
,KASARAGOD PETITIONER/ACCUSED: NITHIN P, AGED 26 YEARS,
S/O.VENU, AJANUR, KADAPURAM P.O, KOLAVAYAL, KANHANGAD,
KASARAGOD, PIN - 671 315.

BY ADVS. P.K.SUBHASH DANIC ANTONY RESPONDENT/STATE: STATE OF
KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF

KERALA, PIN - 682 031. SMT.S.SEETHA-SR.PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.7310/23 2

ORDER

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

2. Petitioner is the accused in Crime No.109 of 2023 of Kumbala Excise Range, Kasaragod. Offence alleged against the petitioner is under Section 58 of the Abkari Act.

3. The prosecution case is that, on 13.08.2023 the accused

was found in possession of 72 litres of IMFL meant for sale in the State of Karnataka. The crime was registered in such circumstances. The petitioner was arrested on the same day and since then he has been under judicial detention. This application for regular bail is submitted in such circumstances.

4. Heard Sri.P.K.Subhash, learned counsel for the petitioner and Smt.Seetha S. learned Public Prosecutor for the State.

5. I have gone through the records. It is true that there are

specific allegations against the petitioner and he was arrested along with the contraband article. However, it is a fact that the petitioner has been under judicial custody since 13.08.2023. No criminal B.A.No.7310/23 3 antecedents of the petitioner is brought to my notice. The prosecution does not have a case that the contraband article recovered from the petitioner was spurious in nature. There is substantial progress in the investigation and all the necessary recovery was effected.

6. In such circumstances, I do not find any necessity of further incarceration of the petitioner. In the result, the application is allowed on 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 on every Thursday until the filing of final report.

(iv) The petitioner shall also appear before the investigating officer as and when required.

(v) The petitioner shall not commit any offence of similar nature while on bail.

(vi) 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 B.A.No.7310/23 4 tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vii) 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 the law. Sd/- ZIYAD RAHMAN A.A. JUDGE DG/25.8.23 B.A.No.7310/23 5 APPENDIX OF BAIL APPL. 7310/2023 PETITIONER ANNEXURES Annexure A1 THE TRUE COPY OF THE BAIL APPLICATION

FILED BEFORE THE JFCM-I DATED 16.08.2023 NUMBERED AS CMP NO 1875 OF 2023 IN CRIME NO. 109 OF 2023 OF KUMBLA EXCISE, KASARAGOD Annexure A2 THE TRUE COPY OF THE ORDER DATED 17.08.2023 IN CMP NO 1875 OF 2023 OF JFCM- I, KASARAGOD IN CRIME NO. 109 OF 2023 OF KUMBLA EXCISE, KASARAGOD ON THE FILES OF THE JUDICIAL MAGISTRATE OF FIRST CLASS -I, HOSDURG

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