

Nimisha Sivan vs State of Kerala

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Court : Kerala

Decided On : Oct-11-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/7705/2023

Appellant : Nimisha Sivan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 11TH DAY OF OCTOBER 2023 / 19TH ASWINA,
1945 CRL.MC NO. 7705 OF 2023 AGAINST THE ORDER/JUDGMENT
IN CRMP 3293/2022 OF I ADDITIONAL DISTRICT COURT,
THIRUVANANTHAPURAM PETITIONER/ACCUSED: NIMISHA SIVAN
AGED 26 YEARS D/O.SIVAKUMAR, PUTHUVAL AZHEEKAL P.O.,
SRAYIKKAD, ALAPPAD, PRAYAR, KOLLAM, KARUNAGAPPALLY,
KOLLAM DISTRICT., PIN - 690518 BY ADVS. PIRAPPANCODE
V.S.SUDHIR AKASH S. GIRISH KUMAR M S DEVIKA JAYARAJ MARY
KUNJU JOHN RESPONDENTS/COUNTER PETITIONERS: 1 STATE
OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH

COURT OF KERALA, ERNAKULAM, PIN - 682031 2 THE STATION
HOUSE OFFICER VALIYATHURA POLICE STATION,
THIRUVANANTHAPURAM, PIN - OTHER PRESENT: SREEJA. V PP
THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11.10.2023, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING: P.V.KUNHIKRISHNAN -----

----- Dated this the 11th day of October, 2023

ORDER

This CrI.MC is filed with the following prayers:- i. allow this CrI.M.C deleting the condition in Annexure III order dated 23.12.2022 of the Additional Sessions Court-I, Thiruvananthapuram, to the effect that the petitioner or one of his sureties shall produce title deed or solvency certificate to prove his or her solvency. SIC

2. The petitioner is aggrieved by the conditions in

Annexure III order passed by the Additional Sessions Court-I, Thiruvananthapuram while allowing an application under Section 451 Cr.PC to release a Maruti Ciaz Zeta car bearing registration No.KL 23 Q 6010 which was taken into custody in relation to Crime No.572/2022 of Valiyathura Police Station.

3. The prosecution case is that, on 03.07.2022 near Shangumukham Foot Ball ground in Pettah Village, 0.55 grams of MDMA and 156.87 grams of Ganja were kept in the above said vehicle.

4. The lower court allowed the application under Section 451 Cr.PC with following conditions:-

The petitioner shall execute a bond for Rs.11,00,000/- (Rupees Eleven Lakhs only) with two solvent sureties, each for the like-sum to the satisfaction of the Court, subject to the following conditions: The petitioner or one of his sureties shall produce title deed or solvency certificate to prove his or her solvency. He shall produce the vehicle before court as and when directed. Before releasing the vehicle to the petitioner, the photographs of the same, three in numbers, each from different angles shall be taken at the expenses of the petitioner and kept with

records by the property clerk of the court.

5. The petitioner is aggrieved by the 1st and 2nd conditions. When this Crl.MC came up for consideration on 25.09.2023, this Court passed the following order:- Public Prosecutor will get instructions whether the vehicle is still in the possession of police and the conditions can be relaxed.

Second respondent will assess the value of vehicle bearing Reg. No.KL 23-Q-6010, through a competent officer of Motor Vehicles Department and submit a report before this court. Post on 11/10/2023. Issue a copy of this

order to Public Prosecutor to communicate the same

to 2nd respondent.

6. Today, the learned Public Prosecutor submitted that

the value of the vehicle is only Rs.2,93,100/-. If that is the case, the condition Nos.1 and 2 can be modified directing the petitioner to execute a bond for Rs.3,00,000/- and also by producing the title deeds of the property instead of producing solvency certificate. Therefore, this Crl.MC is disposed of modifying condition Nos.1 and 2 in the order dated 23.12.2022 in Crl.MP No.3293/2022 of the Additional Sessions Court-I, Thiruvananthapuram in the following manner:-

1. The petitioner shall execute a bond for

Rs.3,00,000/- (Rupees Three Lakhs only) with two solvent sureties each for the like sum to the satisfaction of the court, subject to the condition that the petitioner or one of his sureties will produce title deed.

2. If the title deed is necessary in future, the

person, who produce the title deed, can approach the lower court to release the same and if a such an application is filed, the court below will consider the same, in accordance with law.

Sd/- P.V.KUNHIKRISHNAN JUDGE bng APPENDIX OF CRL.MC 7705/2023
PETITIONER ANNEXURES Annexure I THE CERTIFIED COPY OF THE FIRST
INFORMATION REPORT IN CRIME NO.572/2022 OF THE VALIYATHURA
POLICE STATION Annexure II TRUE COPY OF THE SEIZURE MAHAZAR
PREPARED BY THE SUB INSPECTOR OF POLICE, VALIYATHURA POLICE
STATION Annexure III THE CERTIFIED COPY OF THE ORDER DATED
23.12.2022 IN CRL.M.P.NO.3293/2022 OF THE ADDITIONAL SESSIONS
COURT-I, THIRUVANANTHAPURAM

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