

Nandakumar vs State of Kerala

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Court : Kerala

Decided On : Dec-26-2023

Judge : Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : Bail Appl./10497/2023

Appellant : Nandakumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR
TUESDAY, THE 26TH DAY OF DECEMBER 2023 / 5TH POUSHA, BAIL
APPL. NO. 10497 OF 2023 CRIME NO.89/2021 OF Chittoor Excise
Range Office, Palakkad PETITIONER/ACCUSED: NANDAKUMAR
AGED 25 YEARS S/O.NATARAJAN (LATE), KITTU NIVAS, GANDHI
NAGAR, NAATTUKKAL, PUTHENPATHA, KOZHINJAMPARA,
PALAKKAD DISTRICT., PIN - 678555 BY ADV NIREESH MATHEW
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,
KOCHI., PIN - 682031 SMT. SEETHA.S, SR.PP THIS BAIL

APPLICATION HAVING COME UP FOR ADMISSION ON 26.12.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.G. AJITHKUMAR, J.

----- B.A.No. 10497 of 2023
----- Dated this the 26th day of December,
2023

ORDER

In this bail application filed, purportedly, invoking the provisions of Section 438 of the Code of Criminal Procedure, 1973, the petitioner practically seeks extension of time granted to him to surrender before the Investigating Officer in Crime No. 89 of 2021 of Excise Range Officer, Chittoor, Palakkad District. A similar petition was filed by the petitioner before the Sessions

Court, Palakkad as CrI.M.P.No.2054 of 202

order, the Sessions Court observed that since the petitioner did not comply with the direction issued by that court without any reasonable ground, he was not entitled to the protection as per the order on CrI.M.C.No.1528 of 2021 dated 08.07.2021. Further observation is that the Investigating Officer will be at liberty to arrest the accused and to complete the investigation, and to file the final report.

2. Apprehending arrest consequent to the said direction, the petitioner has filed the present petition.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The Sessions Court as per the order dated 08.07.2021, found that the detention of the petitioner, pending investigation was unnecessary. Finding so, the petitioner was directed to surrender before the Investigating Officer within ten days from the date of that judgment. The petitioner, however, has violated that condition and thereby failed to comply with the direction of the learned Sessions Judge.

5. Having found that the detention of the petitioner was unnecessary during investigation, it is only appropriate to afford another opportunity to the petitioner to surrender before the Investigating officer. It is seen from Annexure A2 that his mother is a kidney patient undergoing dialysis regularly. For that reason, the petitioner is entitled to have leniency in the matter. In the circumstances, this bail application is

disposed of directing the petitioner to appear before the Investigating Officer within ten days from today and on his surrender, conditions in Annexure A1 order will come into force. Sd/- P.G. AJITHKUMAR JUDGE SSK/26/12 APPENDIX OF BAIL APPL. 10497/2023 PETITIONER ANNEXURES Annexure 1 TRUE PHOTOCOPY OF THE ORDER DATED 08.07.2021 IN CRL.MC.NO.1528/2021 PASSED BY THE COURT OF SESSIONS, PALAKKAD Annexure- TRUE TYPED COPY OF ANNEXURE-1. 1(a)

Annexure 2 TRUE PHOTOCOPY OF THE MEDICAL CERTIFICATE DATED 08.07.2021 ISSUED FROM NADAKKAVIL HOSPITAL, VALANCHERRY Annexure 3 TRUE PHOTOCOPY OF THE ORDER DATED 20.06.2023 IN CRL.MP.NO.2054/2023 IN CRL.MC.NO.1528/2021 PASSED BY THE COURT OF SESSIONS, PALAKKAD Annexure 4 TRUE PHOTOCOPY ORDER DATED 22.08.2023 IN B.A.NO.2733/2023 PASSED BY THIS HON'BLE COURT

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