

Rahul 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./11042/2023

Appellant : Rahul

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,
1945 BAIL APPL. NO. 11042 OF 2023 CRIME NO.1035/2023 OF
Guruvayoor Police Station, Thrissur PETITIONER: RAHUL AGED 26
YEARS S/O.RAMESAN, RAGAM HOUSE, VATTAKANDI, KOYILANDY,
KOZHIKODE ., PIN - 673305 BY ADV K.DEEPA (PAYYANUR)
RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 SMT.
REKHA. 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. 11042 of 2023
----- Dated this the 26th day of
December, 2023

ORDER

This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. The petitioner is the accused in Crime No1035 of 2023 of the Guruvayur Temple Police Station. He allegedly had committed the offences punishable under Section 51 of the Wild Life (Protection) Act, 1972.

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

4. The allegations of the prosecution are the following: At about 08.50 A.M on 02.12.2023, when the Sub Inspector of

Police, Guruvayur Police Station inspected the Innova car bearing registration No. KL 17 E 5450 at the road in front of Kuttikrishna Memorial Shopping Complex at Guruvayur, found accused Nos.1 to 3, who were the passengers, in possession of 5 Kg of Ambergris. Possession of Ambergris is prohibited under the provisions of the Wild Life (Protection) Act, 1972 and therefore, they have committed the aforementioned offences.

5. The petitioner would contend that he did not involve in the

alleged crime and without any material or evidence, he has been implicated in the crime. He/she is innocent. The investigation in the matter has been progressed considerably and there is no reason or justification for his further detention.

6. The learned Public Prosecutor would submit that considering

the seriousness of the offence and the possibility of interfering with the investigation by the petitioner in the event of his release on bail, this petition

deserve only to be dismissed. The learned Public Prosecutor further submits that the petitioner has also involved in Crime No.356 of 2022 of the Karipur Police Station, where the offences alleged are punishable under Sections 341, 323, 324, and 326 read with Section 34 of the Indian Penal Code. For the said

reasons learned Public Prosecutor seeks to dismiss the bail application.

7. The petitioner was arrested on 02.12.2023 and has been in

custody ever since. From the narration in the FIR, it is seen that the petitioner was not the person in possession of the contraband article. He being a passenger, it cannot be said that he did not have knowledge about possession of such an article by other passengers. However, having he been in custody since 02.12.2023 and the investigation has been progressive to a considerable extent his detention is not necessary. Further, the bar under Section 51A(b) of the Wild Life (Protection) Act, 1972 does not strictly apply in the case of the petitioner,. Hence I am of the view that the petitioner can be granted bail subject to following conditions.

In the result, the bail application is allowed and the petitioner is granted bail on his/her executing a bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the learned Magistrate, subject to the following conditions:

(i) He shall not influence or intimidate witnesses or tamper with evidence;

(ii) He shall appear before the investigating officer as and when called for; and

(iii) During the bail period, He shall not get involved in

any offence. In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court. Sd/- P.G. AJITHKUMAR, JUDGE AP APPENDIX OF BAIL APPL. 11042/2023 PETITIONER ANNEXURES Annexure -1 TRUE COPY OF THE FIR DATED 02.12.2023 OF CRIME NO.1035/2023 OF THE GURUVAYUR TEMPLES; THRISSUR CITY

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