

Moidunny vs State of Kerala

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Court : Kerala

Decided On : Jan-03-2023

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./10599/2022

Appellant : Moidunny

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
TUESDAY, THE 3RD DAY OF JANUARY 2023 / 13TH POUSHA, 1944
BAIL APPL. NO. 10599 OF 2022 AGAINST THE
ORDER/JUDGMENTCRMC 1623/2022 OF DISTRICT COURT &
SESSIONS COURT,THRISSUR PETITIONER/1ST ACCUSED:
MOIDUNNY AGED 52 YEARS /O KUNJAPPU, PERADIPPURATH
HOUSE, MUTHUPPALLY, KARUKAPUTHUR, PALAKKAD DT., PIN -
679535 BY ADVS. SHARAN SHAHIER RAKHY BABY SONY
SOLOMON S.MOHAMMED FEBIN

RESPONDENT/STATE: STATE OF KERALA REPRESENTED PUBLIC
PROCECUTOR, HIGH COURT OF KERALA, KOCHIN, PIN - 682031 OTHER

PRESENT: PP - NIMA JACOB THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A. No.10599 of 2022 2

VIJU ABRAHAM, J.

----- B.A. No.10599 of 2022 ----- Dated this the 3rd day of January, 2023

ORDER

Application for anticipatory bail.

2. Petitioner is the 1st accused in OR No.4 of 2022 of Erumapetty Forest Range, Thrissur registered alleging commission of offences punishable under Sections 2, 47A(a), 47B, 47C, 47G, 47H, 52 and 61(A) of Kerala Forest Act.

3. The prosecution allegation is that, on 29-11-

2022 the forest officials detected that some persons were seen cutting and removing sandalwood trees from a private property in Mundachikkode Village. It is alleged that the culprits managed to escape from the place and the petitioner was identified to be one among the culprits.

4. The petitioner submits that he has been falsely implicated in the above said crime and he is aged and suffering many health issues also. Petitioner B.A. No.10599 of 2022 3 submits that he was arrayed as an accused only for the reason that his bike was seized from the scene of occurrence. In fact the bike of the petitioner was being used by his friend for some days.

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

6. The learned Public Prosecutor opposed the

application for bail, mainly contending that the sandalwood trees standing in a private property was cut and removed by the petitioner and his bike was seized from the scene of occurrence. Learned Public Prosecutor further submitted that

the petitioner is involved in similar case registered as OR No.5 of 2019. Having regard to the facts and circumstances of the case, and nature of the allegations, I am of the opinion that custodial interrogation is not required for the purpose of investigation and only a limited custody be granted for the same. I am inclined to grant anticipatory bail to the petitioner, but on B.A. No.10599 of 2022 4 stringent conditions. The above bail application is allowed with the following directions. The petitioner shall surrender before the investigating officer on 09.01.2023 and make himself available for interrogation on that day or on any other day/days and time as directed by the investigating officer. The petitioner shall co-operate with the investigation. In the event of arrest of the petitioner in OR No.4 of 2022 of Erumapetty Forest Range, he shall be produced before the jurisdictional Court on the same day and be released on bail on the following conditions:

(i) The petitioner shall execute a bond for sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;

(ii) The petitioner shall appear before the

investigating officer in OR No.4 of 2022 of Erumapetty Forest Range, on every Saturday at 11 am, till the final report is filed and shall also co-operate with investigation as and when summoned for the said purpose by the investigating officer;

(iii) The petitioner shall not tamper with any evidence;

(iv) The petitioner shall not directly or indirectly make any inducement, threat or promise B.A. No.10599 of 2022 5 to any witness acquainted with him from disclosing such facts to the court or to any police officer;

(v) The petitioner shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the Investigating Officer in OR No.4 of 2022 of Erumapetty forest Range may file an application before the jurisdictional court for cancellation of bail. It is made clear that it is within the power of

the police to investigate the matter and if necessary to effect recoveries on the information if any given by the petitioner even when the petitioner is on bail as per the judgment of the Apex Court in Sushila Aggarwal and others v. State (NCT of Delhi) and another (2020 (1) KHC 663). sd/- VIJU ABRAHAM,JUDGE pm

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