

Jihad.B vs State of Kerala

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Court : Kerala

Decided On : Feb-08-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Bail Appl./10605/2022

Appellant : Jihad.B

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
WEDNESDAY, THE 8TH DAY OF FEBRUARY 2023 / 19TH MAGHA,
1944 BAIL APPL. NO. 10605 OF 2022 CRL.MC.NO.2554/2022 OF
SESSIONS COURT,KOLLAM CRIME NO.677/2022 OF KILIKOLLOOR
POLICE STATION, KOLLAM

PETITIONER/2ND ACCUSED: JIHAD.B AGED 32 YEARS,
S/O.MUHAMMAD BASHEER AMINA MANZIL, SANTHI NAGAR-05,
AYATHIL PO, PATTATHANAM, KOLLAM, PIN - 691021 BY ADVS.
C.R.JAYAKUMAR NOBEL RAJU RESPONDENTS/STATE AND
COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM,

PIN - 682031 2 THE STATION HOUSE OFFICER KILIKOLLOOR POLICE STATION, KOLLAM, PIN - 691004 BY SR.PUBLIC PROSECUTOR SMT.NEEMA T.V. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BAIL APPL. NO. 10605 OF 2022 2

ORDER

Dated this the 8th day February, 2023. This is an application for regular bail, filed by the 2 nd accused in Crime No.677/2022 of Kilikolloor Police Station, Kollam, where he alleged to have committed offence punishable under Sections 22(b), 20(b)(ii)(A), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act hereinafter).

2. The prosecution allegation is that, at about 12 noon, on 9.7.2022,

the 1st accused was found in possession of 4.75 grams of MDMA, 2.870 grams of Ganja against the prohibitions contained in the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act hereinafter) along with Rs.99,000/- , an electronic weighing machine and packing materials, while he was transporting the same in a Honda City Car bearing Reg.No.KL- 02/AW-5946. He was intercepted and the above items seized. Thereafter, crime was registered alleging commission of offences punishable under Sections 22(b), 20(b)(ii)(A), 25 and 29 of the NDPS Act. The petitioner was arrested on 7.12.2022 and he has been in custody from 7.12.2022. BAIL APPL. NO. 10605 OF 2022 3

3. The learned counsel for the petitioner pressed for grant of bail on

the submission that the petitioner is innocent. He also pointed out his custody from 7.12.2022. He also argued that, eventhough 60 days period over, no final report also filed. Therefore, the petitioner is entitled to get statutory bail.

4. Whereas, the learned Public Prosecutor zealously opposed bail, pointing out the involvement of the petitioner in two NDPS crimes, prior to this crime. They are as follows: 1. Crime 1323/2021 u/s 21[b],29 of NDPS act

2. Thrikkakara Police Station crime 684/2022 U/s 22[a],20 [b],29 of Narcotic Drugs and Psychotropic Substances Act, 1985

In addition a security proceeding under the provisions of 107 Cr PC has been taken against the petitioner at Eravipuram Police Station. He was also included in the Rowdy history sheet at Eravipuram Police Station.

5. In this matter, when the matter taken up in the morning, the

learned Public Prosecutor was asked as to whether final report has been filed in this matter. When the matter taken up at 4.00 p.m., it is submitted by the learned Public Prosecutor that, information received from the Investigating Officer today at 1.00 p.m., that the final report filed today. Since the learned counsel for the petitioner prayed for release of the petitioner on statutory bail, BAIL APPL. NO. 10605 OF 2022 4 filing of final report and the plea for statutory bail, whichever occurred first, is having relevance. It is true that the petitioner is a person, having criminal antecedents. The attitude of the petitioner in continuously involving in crimes of this nature, is noted with extreme displeasure and therefore, the petitioner can be enlarged on bail, on imposing conditions and one among the conditions is that the petitioner shall not involve in any other offence during the currency of bail and any such event, if reported or came to the notice of this Court, the same shall be a reason to cancel the bail hereby granted. Accordingly, the bail application is allowed and the petitioner is released on bail, by imposing the following conditions:

i. The petitioner shall be released on bail on his executing bond for Rs.50,000/- (Rupees Fifty Thousand Only) with two solvent sureties, each for the like amount to the satisfaction of the Special court concerned. ii. The petitioner shall not intimidate the witnesses or tamper with evidence. He shall co-operate with the trial and shall be available for trial. iii. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the

facts of this case, so as to dissuade him from disclosing such

facts to the court.

iv. The petitioner shall appear before the Investigating Officer on BAIL APPL. NO. 10605 OF 2022 5 every Wednesday in between 9.00 a.m. and 1.00 p.m. for a period of two months, without fail, since he has criminal antecedents. Violation of this condition itself is a reason to cancel the bail hereby granted. v. The petitioner shall surrender his passport before the Special Court on the date of execution of the bail bond, or within 7 days with permission of the Special Court. If the petitioner has no passport, he shall file affidavit to that effect, on the date of execution of bail bond or within 7 days therefrom.

It is specifically ordered that, if the proceedings against the petitioner under the Kerala Anti-social Activities Prevention Act (KAA(P)A) is on final stage, or the petitioner is ordered to be detained under KAA(P)A, the release of the petitioner shall be after culmination of the said proceedings. Sd/- A. BADHARUDEEN
JUDGE Bb //TRUE COPY// PA TO JUDGE

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