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Biju Joseph, vs State of Kerala,

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Court : Kerala

Decided On : Dec-22-2023

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : Bail Appl./11328/2023

Appellant : Biju Joseph,

Respondent : State of Kerala,

Judgement :

BAIL APPL. NO. 11062 OF 2023 CRIME NO.2487/2023 OF KALAMASSERY POLICE STATION, ERNAKULAM KOLLAMKUDIMUGAL ROAD MUNDAMPALAM. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22.12.2023, ALONG WITH Bail Appl..11328/2023, 11329/2023 AND ..2.. BAIL APPL. NO. 11328 OF 2023 CRIME NO.2562/2023 OF KALAMASSERY POLICE STATION, BIJU JOSEPH, STATE OF KERALA, ..3.. BAIL APPL. NO. 11329 OF 2023 CRIME NO.2554/2023 OF KALAMASSERY POLICE STATION, ERNAKULAM, PIN - 682021 ..4.. BAIL APPL. NO. 11338 OF 2023 CRIME NO.2507/2023 OF KALAMASSERY POLICE STATION, ..5.. BAIL APPL. NO. 11340 OF 2023 CRIME NO.2565/2023 OF KALAMASSERY POLICE STATION, ..6.. BAIL APPL. NO. 11343 OF

2023 CRIME NO.2530/2023 OF KALAMASSERY POLICE STATION, ..7.. BAIL APPL. NO. 11355 OF 2023 CRIME NO.2188/2023 OF THRIKKAKARA POLICE STATION, HIGH COURT OF KERALA, PIN - 682031 ..8..

MOHAMMED NIAS C.P., J.

---------- B.A.Nos. 11062, 11328, 11329, 11338, 11340, 11343 & 11355 of 2023 ---------- Dated this the 22nd day of December, 2023

ORDER

B.A.Nos. 11062, 11328, 11329, 11338, 11340, 11343 & 11355 of

2023 are filed under Section 439 of the Code of Criminal Procedure by the petitioner seeking regular bail in respective Crime Nos.2487, 2562, 2554, 2507, 2565 & 2530 of 2023 of Kalamassery Police Station for offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code and Section 10 r/w 24 of the Emigration Act and Crime No.2188 of 2023 of Thrikkakkara Police Station for offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code. The petitioner is accused No.1 in all these cases.

2. The prosecution case is that with an intention to obtain

unlawful gain, the petitioner, who is the Managing Director of an establishment named INNOVIX STUDY ABROAD PRIVATE LTD and accused No.2, who is an employee of the said establishment, received huge amounts from the defacto complainant with a false promise of ..9..

arranging work permit at Poland. It is further alleged that the Defacto Complainant was induced to sign the agreement, promising to arrange a work permit without holding a valid license and failed to fulfil the promise. Thereafter, the 3rd accused promised to arrange a work permit to New Zealand and failed to do so, thereby committing the offences.

3. The learned senior counsel appearing for the petitioner would say that the petitioner is innocent and falsely implicated with ulterior motives.

4. The learned Public Prosecutor opposed the petition and pointed out that the petitioner is not entitled to bail. Learned counsel for the petitioner submits that the petitioner is

ready to clear the entire liability within seven months and that towards the security of that, he shall furnish a bond along with the original title deeds before the Judicial First Class Magistrate Court, Kalamassery. This is recorded. As the petitioner has shown his willingness to settle the amounts due to the defacto complainants, I do not think that further detention of the petitioner is required. Apart from this batch of cases against the petitioner, there are no other antecedents. As the prosecution raises no apprehension that if released on bail, the petitioner is likely to

..10.. abscond, I am inclined to grant regular bail. Accordingly, this application is allowed, and the petitioner is granted bail subject to the following conditions:-

(i) The petitioner shall be released on bail on executing a bond for 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 report before the Investigating Officer as and when directed.

(iii) The petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witnesses.

(iv) The petitioner shall not be involved in any other crime while on bail or leave India without the prior permission of the Court concerned.

(v) There will be a direction to the petitioner to execute a bond,

within two weeks from the date of his release, before the Judicial First Class Magistrate Court, Kalamassery, along with the original of the title deeds offering it as security and undertaking to pay off the entire liability of the defacto complainants involved in these cases within a period of 7 months from today.

(vi) If any of the conditions are violated, the court concerned will ..11.. be empowered to take steps for cancellation of bail as per law; It is made clear that it is within the power of 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 [2021 (1) KHC 663]. Sd/- MOHAMMED NIAS C.P. JUDGE APA

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