

Johnson V D vs the State of Kerala

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Court : Kerala

Decided On : Feb-18-2022

Judge : Honourable Mrs. Justice C.S. Sudha

Appeal No. : Bail Appl./47/2022

Appellant : Johnson V D

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE C.S. SUDHA FRIDAY,
THE 18 TH DAY OF FEBRUARY 2022 / 29TH MAGHA, 1943 BAIL
APPL. NO. 9659 OF 2021 CRIME NO.435/2020 OF VELLAMUNDA
POLICE STATION, WAYANAD DISTRICT PETITIONER/ACCUSED 4:
ABDUL SALAM. O AGED 35 YEARS S/O. ABDULLA ODAN HOUSE,
ANJUKUNNU POST, MANANCHIRA ANJUKUNNU VILLAGE,
MANANTHAVADY TALUK, WAYANAD DISTRICT, PIN-670 645. BY
ADV RAFFEEKH KOTTACKAL RESPONDENTS/COMPLAINANTS:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031. 2 THE SUB

INSPECTOR OF POLICE VELLAMUNDA POLICE STATION, MANANTHAVADY TALUK, WAYANAD, PIN-670 731. BY ADV.SMT.C.SEENA, PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18.02.2022, ALONG WITH Bail Appl..47/2022 AND B.A.NO.9782 OF 2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :-2-:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE C.S. SUDHA FRIDAY, THE 18 TH DAY OF FEBRUARY 2022 / 29TH MAGHA, 1943 BAIL APPL. NO. 9782 OF 2021 CRIME NO.435/2020 OF VELLAMUNDA POLICE STATION, WAYANAD DISTRICT PETITIONER/3RD ACCUSED: NAZEER K. AGED 42 YEARS S/O. ABDULLA, KAMPA HOUSE, KELLOOR P. O., PORUNNANNOOR VILLAGE, WAYANAD DISTRICT, PIN - 670 645. BY ADVS.PEEYUS A.KOTTAM HRITHWIK D. NAMBOOTHIRI RESPONDENTS/STATE:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, COCHIN - 682 031. 2 SUB INSPECTOR OF POLICE VELLAMUNDA POLICE STATION (INVESTIGATING OFFICER IN CRIME NO.435/2020 OF VELLAMUNDA POLICE STATION. WAYANAD DISTRICT, PIN - 673 591) WAYANAD. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18.02.2022, ALONG WITH Bail Appl..47/2022 AND B.A.NO.9659/21, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :-3-:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE C.S. SUDHA FRIDAY, THE 18 TH DAY OF FEBRUARY 2022 / 29TH MAGHA, 1943 BAIL APPL. NO. 47 OF 2022 CRIME NO.435/2020 OF VELLAMUNDA POLICE STATION, WAYANAD DISTRICT PETITIONER/ACCUSED NO.5: JOHNSON V D AGED 50 YEARS S/O DEVASSIA, VELLACHALIL

HOUSE, EDAVAKA POST, KALLODY, MANANTHAVADY TALUK, WAYANAD DISTRICT. BY ADVS.CELINE JOSEPH MANEESHA JOY RESPONDENT/COMPLAINANT/STATE: THE STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. BY ADV.SMT.C.SEENA, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18.02.2022, ALONG WITH Bail Appl..9659/2021, 9782/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :-4-: Dated this the 18 th day of February, 2022

COMMON ORDER

These are applications under Section 438 of Cr.P.C. filed by

the petitioners/accused 3 to 5 seeking pre-arrest bail in Crime No.435/2020 of Vellamunda Police Station, Wayanad District, alleging commission of the offences punishable under Sections 409 read with Section 34 IPC and Sections 3 and 7 of the Essential Commodities Act, 1955 and Section 5(a) of the Kerala Rationing Order, 1966.

2. The prosecution case is as follows - A1 and A2, who are the Manager and Assistant Salesman

respectively of NFSA godown, Mananchira, Mananthavady, diverted 80 quintals of rice, which was allotted to A3 and got it delivered at the residence of A3 with the intention of selling it in the open market. The ration article was transported in a lorry bearing registration No.KL-18/A- 9446, which was driven by A5. The fifth accused had transported these articles in the said lorry with the full knowledge that it was actually meant

:-5-: for being delivered to the ration shop of A3. The ration articles were illegally stored in the house of A3. The fourth accused who is the Salesman of ARD 40 had assisted and helped the other accused in the commission of the crime. Hence the accused are alleged to have committed the offences punishable under the above

mentioned Sections.

3. The applications are opposed by the learned Public Prosecutor.

4. The learned counsel for petitioner in B.A.No.9782/2021,

that is, A3, submitted that he is innocent of the offences alleged against him and that he had stored the articles at his residence only on the instructions of A1 and A2, the Manager and Assistant Salesman respectively of NFSA godown. The learned counsel for the petitioner in B.A.No.9659/2021, that is, A4, submitted that he is innocent of the offences alleged against him. It is submitted that as per the instructions of A1 he had only given the contact details of A3 and that he has no role in the crime. It is submitted by the learned counsel for the petitioner in B.A.No.47/2022, that is, A5, that he was only the driver of the vehicle in

: -6-: which the ration articles were transported and that he had only transported the same as per the instructions given by A1 and A2 and that he has no role in the crime .

5. Heard both sides and perused the records.

6. During the course of arguments, it is brought to my notice that A1 and A2 have been granted bail by this Court as per order dated

shows that recovery of the entire ration articles has been effected. Hence, detention and custodial interrogation of the petitioners/accused do not appear to be necessary in this case. Moreover, A1 and A2 have also been granted bail. In such circumstances, I am of the opinion that pre-arrest bail can be granted to the petitioners.

In the result, the applications are allowed subject to the following conditions:

(i) The petitioners in the event of their arrest in the aforesaid crime shall be released on bail on their executing a bond for a sum of `50,000/- each (Rupees fifty thousand :-7-: only) with two solvent sureties for the like sum each to the satisfaction of the Investigating Officer.

(ii) The petitioners shall appear before the Investigating

Officer on all Tuesdays and Saturdays between 10 a.m. and 1 p.m. till the final report is filed. They shall also appear before the Investigating Officer as and when required by the latter.

(iii) The petitioners shall co-operate with the investigation and they shall not intimidate or influence the witnesses in any manner or interfere with the course of investigation.

(iv) The petitioners shall not commit any offence(s) while on bail. Sd/- C.S.SUDHA
JUDGE ami/

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