

Jishnu vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-31-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./518/2022

Appellant : Jishnu

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
MONDAY, THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943
BAIL APPL. NO. 518 OF 2022 Crime No.1616/2021 of Kunnampulam
Police Station PETITIONER/ACCUSED: 1 JISHNU AGED 28 YEARS,
SON OF RAMDAS, VADANIPARAMBIL HOUSE, NEENDOOR DESOM,
PANNITHADAM, THRISSURE., PIN - 680604 2 DILJITH @ DILPAK
AGED 25 YEARS, SON OF RAJAN, KANAMKOTTIL HOUSE, KAKKAD
DESOM, KUNNAMKULAM, THRISSURE., PIN - 680605 BY ADV
E.A.HARIS RESPONDENT: STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN
- 682031 BY ADV PUBLIC PROSECUTOR OTHER PRESENT: SMT.

SEETHA .S. (SR.PP) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A. No.518/2022 -2-

ORDER

The petitioners are the accused in Crime No.1616/2021 of Kunnankulam Police Station, Thrissur District alleging commission of offences under Sections 20

(b) (ii)B, 22 (ii) (a), 22 (b), 22 (C) and 29 of the Narcotic Drugs and Psychotropic Substances Act and Section 55 (a) Of the Kerala Abkari Act and Section 27 of the Arms Act and Section 118 (I) Of the Kerala Police Act.

2. The allegation against the petitioners is that on the basis of the

information given by the 1st accused in the case, the petitioners were apprehended while travelling in a car and 22.12 grams of MDMA and 15.55 grams of Ganja were seized from the dash board of the car in which the petitioners were travelling. The 1st accused had given information that the drugs recovered from his possession were purchased/supplied by the petitioners herein.

3. The learned counsel for the petitioners would submit that the

petitioners are absolutely innocent in the matter. It is submitted that the mandatory provisions of Section 50 of the NDPS Act have not been complied with, in as much as the petitioners were not informed their right to be searched in the presence of a Magistrate or a Gazetted officer. It submitted that the petitioners have been in custody from 07-08-2021 and their continued detention is not necessary for the purpose of any investigation. It is also submitted that since the mandatory procedure under Section 50 of the NDPS Act has not been complied with there is reasonable ground to believe that the petitioners are not guilty of the offence alleged against them and therefore the rigor of Section 37 of the NDPS Act may not apply.

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4. The learned Public Prosecutor on instructions would submit that on the

basis of specific information, the house of the 1st accused searched and which led to recovery of prohibited drugs under the NDPS Act, certain quantities of Indian Made Foreign Liquor and dangerous weapons as well. It is submitted that on the basis of information given by the 1st accused, the petitioners were apprehended while travelling in a car and the aforesaid quantity of drugs were recovered from the petitioners. It is submitted that the 1st accused in the case has antecedents, though no criminal antecedents are reported against the petitioners herein. It is submitted that the mandatory procedure under Section 50 of the NDPS Act was fully complied with. It is submitted that going by the provisions of Section 37 of the NDPS Act the petitioners are not entitled to bail.

5. Having regard to the facts and circumstances of the case and taking

into account the provisions of Section 37 of the NDPS Act, I am of the view that the petitioners are not entitled to bail. There are no reasonable grounds to believe that the petitioners are not guilty of the offences alleged against them unless such opinion is formed the petitioners are not entitled to bail. This application is dismissed.

Sd/- GOPINATH P. JUDGE AMG B.A. No.518/2022 -4- APPENDIX OF BAIL APPL. 518/2022 PETITIONER ANNEXURES Annexure1 CERTIFIED COPY OF THE BAIL ORDER DATED 10-01-2022 IN CRL.M.P.3245/2022 OF THE HONBLE SESSIONS COURT, THRISSUR

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