

Jijo Koshi vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-27-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./1642/2022

Appellant : Jijo Koshi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 27TH DAY OF JULY 2022 / 5TH SRAVANA, 1944
BAIL APPL. NO. 1642 OF 2022 Crime No.2 of 2022 of Excise Range
Office, Mamala PETITIONER/1st accused: JIJO KOSHI AGED 21
YEARS S/O KUNJU KOSHI,THAZHAVA DESOM, THODIYOOR
VILLAGE, KARUNAGAPPILLY TALUK, KOLLAM DISTRICT, PIN-
690523

BY ADV P.A.MUJEEB RESPONDENT/COMPLAINANT: STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA,
ERNAKULAM. COCHIN-682031 OTHER PRESENT: SR.PP - SMT. SEETHA S.
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27.07.2022,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BA No.1642 of 2022 2

VIJU ABRAHAM, J.

B.A.No.1642 of 2022 Dated this the 27th day of July, 2022

ORDER

This is an application for regular bail.

2. Petitioner is the 1st accused in Crime No.2 of 2022 of Excise

Range Office, Mamala registered alleging commission of offences punishable under Sections 20(b)(ii)(B), 22(b), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, NDPS Act).

3. Prosecution case is that on 23.01.2022 at 9.05 p.m. the

petitioner/1st accused along with accused Nos.2 to 4 found in possession of 15.011 kgs ganja, 1.615 kgs hashish oil and 1.920 grams MDMA for illegal use and sale in contravention of the NDPS Act and Rules and thereby committed the aforesaid offences.

4. It is the case of the petitioner that he is innocent of the

offences alleged against him and he has been falsely implicated in the case. He has no criminal antecedents. He is a final year mechanical engineering student in Jai Bharath College, Chelakkulam and he is to complete his course in June 2022. He was staying along with other three students in a rented house. He has no connection with the offence or contrabands. It is the further contention of the petitioner that he has no

BA No.1642 of 2022 3 other criminal antecedents and in fact, he has surrendered before the Excise Range office, Ernakulam which clearly shows that the petitioner has surrendered before the authorities.

5. Learned Public Prosecutor seriously opposed the application

for bail mainly contending that the petitioner has an active role in the commission of offence and that since contraband involved is of commercial quantity, the rigor of Section 37 of the NDPS Act will come into operation. In fact on 23.01.2022, the excise party seized 15.011 kgs of ganja, 1.615 kgs of Hashish oil, 1.920 grams of MDMA and a scooter and accused Nos.2 to 4 were arrested on the spot and the petitioner herein who is the 1st accused escaped from the spot and could not be arrested. Later he was arrested. In fact petitioner was arrested in connection with Crime No.7 of 2022 of Excise Range Office, Ernakulam alleging commission of offences punishable under Section 20(b)(ii)(A) of the NDPS Act and that arrest was recorded in the present crime.

It is seen that the contraband involved is of a commercial

quantity and the petitioner is involved in another NDPS case also. Since the quantity involved is of commercial quantity, the rigor of Section 37 of the NDPS Act will definitely come into play and for the release of petitioner on bail the twin conditions provided in the said section are to be satisfied. In view of the involvement of the petitioner in the alleged incident and also his criminal antecedents, I am of the prima facie view that the petitioner

BA No.1642 of 2022 4 could not substantiate that the rigor under Section 37 of the NDPS Act will not apply in the facts and circumstances of this case. Therefore, the bail application is accordingly dismissed. Sd/- VIJU ABRAHAM JUDGE cks

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