

Benny vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-25-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./4914/2022

Appellant : BENNY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
MONDAY, THE 25TH DAY OF JULY 2022 / 3RD SRAVANA, 1944 BAIL
APPL. NO. 4914 OF 2022 CRMC 1197/2022 OF DISTRICT COURT &
SESSIONS COURT,KOLLAM CRIME NO.31/2021 OF EXCISE RANGE
OFFICE, KOLLAM

PETITIONER/ACCUSED NO.2: BENNY, AGED 33, S/O.ALBERT, BINU
BHAVAN, MADANKAVU DESAM, MUNDAMCHIRA, PERINADU
VILLAGE, KOLLAM, PIN - 691601 BY ADV AJAYA KUMAR. G
RESPONDENTS/STATE/COMPLAINANT: 1 STATE OF KERALA
REPRESENTED PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

ERNAKULAM 2 THE EXCISE CIRCLE INSPECTOR EXCISE ENFORCEMENT AND ANTI NARCOTIC SPECIAL SQUAD OFFICE, KOLLAM. OTHER PRESENT: PP - SRI. M.C.ASHI THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25.07.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BA No.4914 of 2022 2

VIJU ABRAHAM, J.

B.A. No.4914 of 2022 Dated this the 25th day of June, 2022

ORDER

This is an application for regular bail.

2. The petitioner is the 2nd accused in Crime No. 31 of 2021 of

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

3. The prosecution case is that on 04.09.2021 at around 8

p.m. near Mamoodu juma Masjid, police intercepted a motor cycle bearing registration No. KL2/BP-5141, in which 1st accused was found in possession of was 1.506 Kg of ganja and seizure of contraband and vehicle was effected. It was further alleged that on further investigation it was revealed that the 2nd accused, the petitioner herein, is the owner of the motor vehicle and he entrusted the ganja to the 1st accused for sale and thus committed the abovesaid offences.

4. It is respectfully submitted that the petitioner is innocent and had not committed any offence as alleged. The crime was registered on 04.09.2021 and the petitioner was arrested only on 02.06.2022. The BA No.4914 of 2022 3

petitioner is not having direct acquaintance with the 1st accused. His Motor bike was pledged to the 1st accused by him due to urgency of money for treatment of

his mother and ever since the same was being used by the 1st accused for his personal use. The petitioner due to financial difficulty could not release the vehicle and there is no other connection between him and the 1st accused. The police had falsely implicated the petitioner in the above crime and the delay of around 10 months in arresting the petitioner would clearly indicate this fact. There is no prima facie case made out against the petitioner. Even though the petitioner moved an application for bail before the Sessions Court, Kollam, the same was rejected as per Annexure A1 order.

5. Learned Public Prosecutor seriously opposed the

application for bail mainly contending that the petitioner is the registered owner of the motor vehicle bearing registration No. KL 02-BP-5141 and accused 1 and 2 connived together for the sale of ganja and that investigation is going on. It is submitted that the contraband was kept in the motorcycle owned by the petitioner and as per the statement given by the 1st accused, he has purchased the contraband from the petitioner herein. Learned Public Prosecutor further submits that petitioner is a habitual offender having been involved in two other NDPS cases, i.e., Crime No. 56 of 2020 of Excise Range Office, Kollam and Crime No.1 of 2019 of Ezhukone Excise Range. The learned Public prosecutor further

BA No.4914 of 2022 4 submits that the investigation is going on and the quantity involved is 1.5 kg of ganja and taking into consideration antecedents of the petitioner in having been involved in crimes of similar nature, there is every chance to repeat the same offence and also to influence the witnesses. Taking into consideration the fact that the quantity involved is significant and that the petitioner has serious antecedents in having been involved in NDPS cases and that investigation is in progress, I am not inclined to grant bail to the petitioner at this stage and the bail application is accordingly dismissed. Sd/- VIJU ABRAHAM
JUDGE cks

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