

Vimal K Mohanan vs State of Kerala Represented by Public Prosecutor

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Court : Kerala Orders

Decided On : Jul-29-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./4922/2022

Appellant : Vimal K Mohanan

Respondent : State of Kerala Represented by Public Prosecutor

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944 BAIL
APPL. NO. 4922 OF 2022 CRIME NO.1915/2022 OF
PERUMBAVOOR POLICESTATION PETITIONER/ACCUSED NO.7:
VIMAL K MOHANAN AGED 26 YEARS KANJIRAKKUZHI VEETI,
PULIMALA BHAGATHU, AAYAKKAD KARA, THRIKKARIYOOR
VILLAGE PIN - 686692,ERNAKULAM DISTRICT, BY ADVS. D.FEROZE
C.J.JIYAS T.S.KRISHNENDU PREETI S.
RESPONDENT/COMPLAINANT & STATE:

1 STATE OF KERALA REP. BY PUBLIC PROSECUTOR HIGH COURT
OF KERALA, ERNAKULAM - 682031, (CRIME NO.1915/2021 OF
PERUMBAVOOR POLICE STATION, ERNAKULAM DISTRICT) 2
STATION HOUSE OFFICER PERUMBAVOOR POLICE STATION,
ERNAKULAM DISTRICT - 683542 (CRIME NO.1915/2021 OF
PERUMBAVOOR POLICE STATION, ERNAKULAM DISTRICT) OTHER
PRESENT: SR.PP - SMT. SEETHA S. THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 29.07.2022, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING: BA No.4922 of 2022 2

VIJU ABRAHAM, J.

B.A.No.4922 of 2022 Dated this the 29th day of July, 2022

ORDER

This is an application for regular bail.

2. The petitioner is arrayed as 7th accused in Crime No.1915 of 2021 of Perumbavoor Police Station, Ernakulam District alleging commission of offences punishable under Sections 20(b)(ii) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The prosecution allegation is that on 11.10.2021 at 1.00 pm,

on the information received that, the accused Nos.1 and 2 had reached at a courier office near MES college Marambilly for collecting a courier in cardboard box and when the investigating officer reached the place of occurrence, he questioned accused Nos.1 and 2 and thereby searched the courier box and found 30.200 kgs of ganja and on questioning it is revealed that accused Nos. 3 to 10 on conspiracy committed the offence as alleged.

4. The specific case of the petitioner is that he is not involved

in any conspiracy and that he has not carried any contraband and the only allegation is that accused Nos.6, 9, and 10 had booked the courier containing

contraband from Vishakapatnam in the name and address of BA No.4922 of 2022 3 accused Nos.3 and 7 and further that the courier was also not collected by the 7th accused. Petitioner is arrested on 18.03.2022 and is in custody since then.

3. Learned Public Prosecutor seriously opposed the

application for bail mainly contending that 30.20 kgs of ganja was seized from the possession of accused Nos.1 and 2 which was booked in the name of 3rd accused and petitioner herein. A conspiracy was hatched by all the accused together for procurement of ganja. The investigation revealed that the petitioner along with accused Nos.3 and 4 went to Vishakpatanam and met accused Nos. 1, 6, and 8 and they have gone there to make arrangements for buying ganja and also for interstate transportation of the contraband and they sent the same by courier in the name of 3rd accused as well as petitioner herein. The ganja was seized from the possession of accused Nos.1 and 2 in front of DTDC office. On verifying the bank account of the petitioner, it is revealed that the petitioner has received monetary benefits from the other accused through the bank account of his wife, Sneha, and further that the CDR of the petitioner reveals that the petitioner had telephonic contacts with all the other accused and thus it is contended by the learned Public Prosecutor that in the light of the evidence collected during the investigation it is revealed that the petitioner had actively participated in the entire process from conspiracy to transportation of the contraband

BA No.4922 of 2022 4 article. Since the quantity involved is of commercial quantity, the

rigor of Section 37 will definitely come into play and for the release of the 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, I am of the prima facie view that the petitioner 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.

It is made clear that these prima facie observations are made for the limited purpose of deciding this bail application and the above opinion expressed shall not

be regarded as opinion on merits, during trial. Sd/- VIJU ABRAHAM JUDGE cks

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