

Sabeer vs State of Kerala

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Court : Kerala

Decided On : Oct-06-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./5516/2022

Appellant : Sabeer

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
THURSDAY, THE 6TH DAY OF OCTOBER 2022 / 14TH ASWINA, 1944
BAIL APPL. NO. 5516 OF 2022 Crime No.352/2022 of Kuruppampady
Police Station, Ernakulam District PETITIONER/ACCUSED: SABEER
AGED 47 YEARS S/O.ABDUL KALAM, NADUVILAKATHU HOUSE,
PALAPRASSERY BHAGOM, CHENGAMANADU KARA,
CHENGAMANADU VILLAGE, ERNAKULAM DISTRICT., PIN - 683578
BY ADV T.M.DOLGOVE RESPONDENT/STATE: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, PIN - 682031 BY ADVS. PUBLIC PROSECUTOR
ADDL.DIRECTOR GENERAL OF PROSECUTION(AG-11)

OTHER PRESENT: SR.PP - SRI. C.K.SURESH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A. No.5516 of 2022 :2:

VIJU ABRAHAM, J.

B.A. No.5516 of 2022 Dated this the 6th day of October, 2022

ORDER

This is an application for regular bail.

2. The petitioner is accused No.6. in Crime No.352/2022 of

Kuruppampady Police Station, Ernakulam District, alleging commission of offences punishable under Section 8(c) r/w Sections 22(b)(ii)C, 29, 27A of the Narcotic Drugs and Psychotropic Substances (NDPS) Act.

3. The prosecution allegation is that, on 15.04.2022 at about

2.55 PM, on previous information, a tanker lorry bearing Reg.No.TN-52-A-9200, drove by accused No.1, was intercepted by the police and on searching the vehicle, 248.165 Kgs of Gajna was seized from the secret chamber of the said lorry. Thereafter, on the basis of the confession, it is alleged that accused Nos.2, 4, 5 and 6 have spent amounts to purchase the contraband through accused No.3 and thus the accused have committed aforesaid offences.

4 .The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the above said crime. It is also submitted that the petitioner has been made an accused solely B.A. No.5516 of 2022 :3:

based on the confession statement of accused Nos. 2 to 5, which is totally inadmissible going by the Judgment of the Apex Court in Tofan Singh v. State of Tamil Nadu [2020(2)KLD 781]. It is further submitted that other than the confession statement, there is absolutely nothing to connect the petitioner with the alleged offence.

5. The learned Public Prosecutor seriously opposed the

application for bail mainly contending that the petitioner is the main person behind all the transactions and the contraband involved in the present case is 248.165 Kgs of Ganja. The investigation so far reveals monetary transactions between all the accused and in fact the contraband was supplied by the 8 th accused, who is a person from Orissa, and that the petitioner has transferred an amount of Rs.95,000/- to the account of the 8 th accused. It is also seen that there are other monetary transactions between the petitioner and the 2nd accused also .

Considering the fact that the investigation is not yet over and that commercial quantity of ganja is involved, the rigor of Section 37 of the NDPS Act will definitely come to play. No substantial contentions have been raised by the petitioner to get over the rigor of Section 37 of the NDPS Act. Long period of custody cannot be a B.A. No.5516 of 2022 :4:

reason for granting of bail. I feel that the petitioner is not successful in establishing that his case will not come under the rigor of the twin conditions mentioned in Section 37 of the NDPS Act. In view of the same, I am not inclined to grant bail to the petitioner at this stage. Accordingly, the bail application is dismissed.

Sd/- VIJU ABRAHAM JUDGE sm/

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