

Sadique vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-24-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./8825/2021

Appellant : Sadique

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
MONDAY, THE 24TH DAY OF JANUARY 2022 / 4TH MAGHA, 1943
CRIME NO.758/2021 OF CHALAKUDY POLICE STATION
PETITIONER/1ST ACCUSED: SADIQUE AGED 26 YEARS
S/O.JABBAR, CHERPARAMBIL HOUSE, CHOORNIKKARA VILLAGE,
ALUVA, ERNAKULAM DISTRICT. BY ADVS. AJMAL V. A. FATHIMA
V.A. RESPONDENT/COMPLAINANT: STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682 031. BY SRI.C.K.SURESH (SR.PP)
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
24.01.2022, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

ORDER

This is an application for regular bail.

2. The petitioner is the 1st accused in Crime No.758 of 2021

of Chalakkudy Police Station, Thrissur District, alleging commission of offences under Sections 20(b)(ii)(C) of NDPS Act, 1985. The allegation against the petitioner is that on 07.10.2021, at about 10.15AM, the petitioner along with the other accused in the case, were found transporting 178.650 Kg of Ganja in a car bearing registration No.KL-46-N-6060 at a place called Potta near Thrissur.

3. The learned counsel for the petitioner submits that the

petitioner has been wrongly roped in as an accused in the case and that the petitioner was only a driver of the car. It is submitted that he was not aware that the material being transported in the car was Ganja. It is submitted that the petitioner has completed 109 days in custody and it is submitted that the family circumstances of the petitioner are such that he may be released on bail. Reference is made to the fact that the wife of the petitioner is six months pregnant. It is submitted that the petitioner is the sole bread winner of the family and the continued incarceration of the petitioner will be a violation of his rights under Article 21 of the Constitution of India.

4. The learned Public Prosecutor submits that the

investigation carried out thus far shows that the petitioner was actively involved in the procurement and transport of Ganja in such huge quantities. It is submitted that the Ganja was procured from Andhra Pradesh and the investigation has revealed that the petitioner had gone to Andhra Pradesh with other accused in the case for the purpose of purchasing and transporting Ganja to Kerala. It is submitted that going by the provisions of Section 37 of the NDPS Act, the petitioner is not entitled to bail.

5. Having regard to the facts and circumstances of the case, I find no material to hold that the petitioner is prima facie not guilty

of the offence alleged against him. It is only when this Court is prima facie convinced that the petitioner may not be guilty of the offences alleged against him that a person accused of committing offence under the NDPS Act (to which Section 37 applies) can be released on bail. In the result, this bail application fails and is accordingly dismissed. Sd/- GOPINATH P. JUDGE DK

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