

Nahas vs State of Kerala

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Court : Kerala

Decided On : Apr-27-2021

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./1866/2021

Appellant : NAHAS

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
TUESDAY, THE 27TH DAY OF APRIL 2021 / 7TH VAISAKHA, 1943 Bail
Appl..No.1866 OF 2021 CRIME NO.14/2020 OF ANGAL EXCISE
RANGE OFFICE , Kollam PETITIONER/ACCUSED: NAHAS AGED 35
YEARS VALLA KADAVIL, VELLAKINAR ROAD, ALAPPUZHA, PIN-
688001 BY ADV. SHRI.R.UMASANKAR RESPONDENTS: 1 STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA ERNAKULAM, PIN-682031 2 ASSISTANT EXCISE
COMMISSIONER OFFICE OF THE ASSISTANT EXCISE
COMMISSIONER, KOLLAM, PIN-691333 SRI.M.R.DHANIL, PUBLIC
PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR

ADMISSION ON 27.04.2021, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

ORDER

This is an application filed u/s 439 of Code of Criminal Procedure seeking regular bail.

2. The petitioner is the accused No.2 in Crime No.14/2020 of Anchal Excise Range Office. The offences alleged are under Sections 8(C), 22(C) and 28 of the NDPS Act.

3. The prosecution case in short is that on 13.08.2020 at

about 5.45 p.m., the Excise Circle Inspector of Aryankavu Range seized 36 strips each containing 24 capsules of a narcotic drug named Spasmo-Proxyvon Plus from the 1st accused while he was transporting the same in a vehicle and on further investigations, it was found that the contraband substance was supplied to the 1st accused by the petitioner and one Karuppaswami who were involved in the business of drug peddling.

4. Heard both sides and perused the case diary.

5. The learned counsel for the petitioner submitted that the petitioner is absolutely innocent and he has been falsely implicated

in the present case. He further submitted that there are no materials to connect the petitioner with the alleged crime and hence he is entitled to get bail. The learned Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioner and if the petitioner is released on bail at this stage, it would affect the course of investigation.

6. The petitioner was arrested on 11.09.2020 and since

then he is in judicial custody. The quantity involved is a commercial quantity. Since the quantity involved is a commercial quantity, the jurisdiction of this Court to grant

bail is circumscribed by the provisions of Section 37 of the NDPS Act. The petitioner moved this Court for bail twice on earlier occasions. Both those applications were dismissed by this Court holding that the rigor of Section 37 of the NDPS Act would apply. No change of circumstances has been pointed out by the petitioner.

Accordingly, the bail application is dismissed. Sd/- DR. KAUSER EDAPPAGATH
JUDGE NP

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