

Naveed vs State of Kerala

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Court : Kerala

Decided On : May-04-2021

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./3311/2021

Appellant : Naveed

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 04TH DAY OF MAY 2021 / 14TH VAISAKHA, 1943 Bail
Appl..No.3311 OF 2021 CRIME NO.10/2021 OF Parappanangadi Excise
Range Office Malappuram PETITIONER/ACCUSED NO.2:
NAVEED,AGED 22 YEARS S/O BABU, TAHEMEEN MANZIL,
PULIYANCHODU, RAMANATTUKARA, KOZHIKKODE, KOZHIKKODE
DISTRICT-673633 BY ADV. SRI.BABU S. NAIR RESPONDENT/S: 1
STATE OF KERALA,REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA -682031 2 THE EXCISE
INSPECTOR PARAPPANANGADI EXCISE RANGE,
PARAPPANANGADI, MALAPPURAM DISTRICT-676303 R1 BY
PUBLIC PROSECUTOR

OTHER PRESENT: SR.P.P.SRI.C.N.PRABHAKARAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04.05.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Bail Appl.No.3311 OF 2021 2 P.V.KUNHIKRISHNAN, J ----- B.A.No.3311 of 2021 ----- Dated this the 4th day of May, 2021

ORDER

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the 2nd accused in Crime No.10/2021 of

Parappanangadi Excise Range. The above case is registered against the petitioner and the other accused alleging offences punishable under Sections 22(b) and 20(b)(ii)A and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

3. The prosecution case is that on 17.03.2021 while the

petitioner and another was travelling in a motor bike the excise officials intercepted them and seized 2.5 grams of MDMA and 130 grams of ganja from the possession of the petitioner.

4. The counsel for the petitioner submitted that the alleged contraband seized from the possession of the petitioner will come only in the intermediary quantity as per the NDPS Act. The counsel

submitted that the petitioner is in custody from 17.03.2021. The Public Prosecutor opposed the bail application. The Public Prosecutor submitted that the petitioner committed serious offences and this Bail Appl.No.3311 OF 2021 3 Court may not release the petitioner on bail at this stage.

5. After hearing both sides, I think that this bail application

can be allowed on stringent conditions. It is true that the allegations against the petitioner is very serious. But the quantity seized from the petitioner as per the

prosecution case itself is only an intermediary quantity. The petitioner is in custody from 17.03.2021. Considering the entire facts and circumstances of the case, I think that this bail application can be allowed on stringent conditions.

6. Moreover, the 2nd wave of COVID-19 is spreading in the

country and the citizens are facing serious difficulties. In the State of Kerala, the 2nd wave of the pandemic is creating lot of problems and even the day-to-day life of the citizens are affected. Everyday, about 25,000 people are tested positive with COVID-19. In such circumstances, this Court has to consider this fact also while considering bail applications. The life is more important than anything. Therefore, I am considering this bail application based on the above pandemic situation.

7. Moreover, considering the need to follow social distancing

norms inside prisons so as to avert the spread of the novel Corona Virus Pandemic, the Hon'ble Supreme Court in Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition(C) No.1 of 2020) and a Full Bench of this Court in W.P(C)No.9400 of Bail Appl..No.3311 OF 2021 4 2020 issued various salutary directions for minimizing the number of inmates inside prisons. These happened during the 1 st wave of COVID- 19 season.

8. Moreover, it is a well accepted principle that the bail is the

rule and the jail is the exception. The Hon'ble Supreme Court in Chidambaram. P v Directorate of Enforcement (2019 (16) SCALE 870), after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

9. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following directions:

1. Petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the

satisfaction of the jurisdictional Court.

2. The petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly Bail Appl..No.3311 OF 2021 5

make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

3. Petitioner shall not leave India without permission of the jurisdictional Court.

4. Petitioner shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which he is suspected.

5. The petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing in the wake of Covid 19 pandemic.

6. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. Sd/- P.V.KUNHIKRISHNAN JUDGE sd

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