

Viju vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-27-2021

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./7672/2020

Appellant : VIJU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
WEDNESDAY, THE 27TH DAY OF JANUARY 2021 / 7TH MAGHA,
1942 Bail Appl..No.7672 OF 2020 CRIME NO.1654/2020 OF
Kodungallur Police Station, Thrissur PETITIONER/S: VIJU AGED 47
YEARS SON OF SEBASTIAN, KALLARACKAL VEEDU,
GOTHURUTHU THEKKE KADAVU, CHENDAMANGALAM VILLAGE,
ERNAKULAM DISTRICT BY ADV. SRI.NIREESH MATHEW
RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM R1 BY
PUBLIC PROSECUTOR SMT.V.SREEJA -PP THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 27.01.2021, ALONG WITH

Bail Appl..9217/2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
WEDNESDAY, THE 27TH DAY OF JANUARY 2021 / 7TH MAGHA,
1942 Bail Appl..No.9217 OF 2020 CRIME NO.1654/2020 OF
Kodungallur Police Station, Thrissur PETITIONER/S: YEDHU REJIPTH
AGED 31 YEARS VADAPARAMBIL HOUSE, MUTHAKUNNAM P.O,
ERNAKULAM BY ADV. SRI.K.MOHAMMED RAFEEQ
RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 2 STATION
HOUSE OFFICER KODUGALLOOR POLICE STATION R1 BY PUBLIC
PROSECUTOR SRI.SANTHOSH PETER SR PP THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 27.01.2021,
ALONG WITH Bail Appl..7672/2020, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

COMMON ORDER

[Bail Appl..7672/2020, Bail Appl..9217/2020] Dated this the 27th day of January 2021 Applications for regular bail under Section 439 Cr.P.C. The applicant in BA No.7672/2020 is the 3rd accused, while the applicant in BA No.9217/2020 is the 4th accused in Crime No.1654/2020 of Kodungallur Police Station, Thrissur, for having allegedly committed offence punishable under Section 20(b)(ii)(C) of the NDPS Act.

2. The prosecution case, in brief, is that on 23.05.2020 at about 1.10 p.m, the Sub Inspector of

Police, Kodungallur Police Station and party intercepted a vehicle bearing Reg.No.KL-52/A 3996 at a place near Pulloot Bridge and seized 75.625 kilograms of ganja from the vehicle. Accused Nos.1 and 2 were arrested from the spot. Thereafter on questioning them they gave statements regarding the involvement of

accused Nos.3 and 4 also. In consequence of which they also have been implicated. The second accused is on statutory bail since the final report was not filed within the statutory time stipulated. However the other accused continue in remand and now the final report has already been filed.

3. The applicants would mainly rely on the decision of Tofan Singh vs. The State of Tamil

Nadu 2020 SCC OnLine 882 in support of their argument that they have been implicated solely on the basis of statements given by the co-accused. In view of the decision in Apex Court in Tofan Singh, the conviction cannot be based solely on the confession of the co-accused. The learned Public Prosecutor has submitted that there are other materials and statements of other witnesses

relied upon by the prosecution in

accused Nos.3 and 4. If that be so, it is a matter of trial and the trial court will have to decide whether the statements or the witnesses who are to testify against accused Nos.3 and 4 and about their involvement in the transaction are to be believed or not. Therefore, without making any observations on the statements of the witnesses which has been taken regarding the involvement accused Nos.3 and 4, I find that the embargo under

Section 37 of the NDPS Act would be attracted against these accused and therefore they are not entitled to bail. The application is only to be dismissed with a direction to the jurisdictional court to expedite trial and dispose of the matter as expeditiously as possible in view of the fact that the applicants are in remand and also considering the present pandemic situation. Sd/- ASHOK MENON JUDGE
SPK

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