

Noufal vs State of Kerala

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Court : Kerala

Decided On : Dec-31-2021

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./9748/2021

Appellant : Noufal

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
FRIDAY, THE 31ST DAY OF DECEMBER 2021 / 10TH POUSHA, 1943
BAIL APPL. NO. 9748 OF 2021 CRIME NO.15/2021 OF EXCISE
ENFORCEMENT ANTI-NARCOTIC SPECIAL SQUAD, MALAPPURAM
DISTRICT. PETITIONERS/ACCUSED NOS.1 AND 2 (IN CUSTODY
FROM 1 NOUFAL,AGED 34 YEARS S/O. HAMZA, CHAKKUNGAL,
PERINTHALMANNA, MALAPPURAM DISTRICT 2 NAJEEB
RAHMAN,AGED 29 YEARS S/O. HAMZA, AMANATH, VETTATHUR,
MALAPPURAM DISTRICT BY ADVS.P.MOHAMED SABAH LIBIN
STANLEY SAIPOOJA, R.GAYATHRI SADIK ISMAYIL
RESPONDENTS/COMPLAINANTS: 1 STATE OF KERALA

REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM 682 031 2 INSPECTOR, EXCISE ENFORCEMENT ANTI-NARCOTIC SPECIAL SQUAD, MALAPPURAM DISTRICT. BY ADV.SRI.PRASANTH M.P., P.P. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.12.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:-

O R D E R

Dated this the 31st day of December, 2021 This is an application filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioners are the accused Nos.1 and 2 in Crime

No.15/2021 of Excise Enforcement Anti-Narcotic Special Squad, Malappuram District. The offences alleged are under Sections 8(c), 20(b) (ii) (B) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act).

3. The prosecution case in short is that on 23/10/2021 at 6.00 p.m, the petitioners were found in possession of 11.280 grams of ganja at the house bearing door No.13/346 in contravention of the NDPS Act and the Rules and thereby committed the offence.

4. Heard both sides and perused the case diary.

5. The learned counsel for the petitioners submitted that the petitioners are absolutely innocent and they have been falsely implicated in the present case. He further submitted that -:3:-

there are no materials to connect the petitioners with the alleged crime and hence they are 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 petitioners and if the petitioners are released on bail at this stage, it would affect the course of investigation.

6. Perusal of the case diary would reveal that prima facie there are materials on record to connect the petitioners with the crime. However, the petitioners were remanded to judicial custody on

no criminal antecedents. Hence, I am of the view that considering the nature of the crime and stage of the investigation, he can be released on bail. In so far as the accused No.1 is concerned, he is having criminal antecedents including two crimes under the NDPS Act. Hence, I am of the view that he cannot be released on bail at

this stage. The 2nd petitioner/accused No.2 is entitled to be -:4:- released on bail on conditions. In the result, the application is allowed in part on the following conditions:-

(i) The 2nd petitioner/accused No.2 shall be released on

bail on executing a bond for `1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The 2nd petitioner/ accused No.2 shall fully co-operate with the investigation.

(iii) The 2nd petitioner/accused No.2 shall appear before the

investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. He shall also appear before the investigating officer as and when required by him.

(iv) The 2nd petitioner/accused No.2 shall not commit any offence of like nature while on bail.

(v) The 2nd petitioner/accused No.2 shall not make any

attempt to contact any of the prosecution witnesses, directly or through any other person, or any other way try to tamper with the evidence or influence any witnesses or other persons related -:5:- to the investigation.

(vi) The 2nd petitioner/accused No.2 shall not leave State

of Kerala without the permission of the trial Court. The application as against the 1st petitioner/accused No.1 is rejected. Sd/- DR. KAUSER EDAPPAGATH JUDGE
Rp

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