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Udhayakumar vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-10-2019

Judge : Honourable Mr. Justice a.M.Babu

Appeal No. : Bail Appl./3668/2018

Appellant : Udhayakumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.M.BABU THURSDAY ,THE 10TH DAY OF JANUARY 2019 / 20TH POUSHA, 1940 CRIME No.194/2018 OF KAMBAMMEDU POLICE STATION, IDUKKI DISTRICT PETITIONER/S: UDHAYAKUMAR AGED 34 YEARS, S/O. VIJAYAN, 21/42, SADANANTHAPURAM, PAHADY P.O., UDUMBANCHOLA, IDUKKI DISTRICT, PIN - 685 553. BY ADVS. SRI.G.SUDHEER SMT.N.P.ASHA RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031. OTHER PRESENT: SRI. D. CHANDRASENAN, PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10.01.2019, THE COURT ON

THE SAME DAY PASSED THE FOLLOWING:

ORDER

Apprehending his arrest, petitioner seeks bail under Sec.438 of Cr.P.C. The petitioner contends that he is totally innocent. The crime number, the offence alleged et cetera are not stated in the application.

2. The learned public prosecutor supplied the following

> informations: Crime number is 194/2018. Police station is Kambammedu police station in Idukki district. The date of occurrence is 18.5.2018. The petitioner is the second accused. The offences alleged are those punishable under Secs 20 (b) and 29 of the Narcotic Drugs and Psychotropic Substances Act. The contraband involved is 2 kgs of dry ganja.

3. Heard Smt.N.P.Asha, the learned counsel for the petitioner and Sri.D.Chandrasenan, the learned public prosecutor.

4. I am shown the case diary by the learned public

> prosecutor. I perused the papers in it. The prosecution case goes as under: It was on 18.5.2018 the incident. All the accused including the petitioner were involved in carrying dry ganja from Tamil Nadu to Kerala. On 18.5.2018 the petitioner and the 3rd accused together and the first accused separately through different routes came to Kambammedu from Tamil Nadu. The local people had suspicion and therefore they

stopped the first accused and questioned him. The petitioner and the 3rd accused reached there on a motor cycle and tried to save the first accused who had ganja with him. That was prevented by the local people. The petitioner and the 3 rd accused fled from the scene of occurrence.

5. I have perused the case diary. I do not find it

appropriate to grant bail to the petitioner under Sec.438 of Cr.P.C. The learned counsel for the petitioner submits that there was no spot arrest in the case of the petitioner and that no contraband was seized from him. These are not sure grounds for the petitioner to get bail under Sec.438 of Cr.P.C. The learned public prosecutor submits that the petitioner and the co-accused are carriers of narcotic drugs. It is also submitted that grant of anticipatory bail to the petitioner would affect the investigation. The submissions cannot be brushed aside. I do not find any good ground to grant bail to the petitioner under Sec.438 of Cr.P.C. Hence the application is liable to be dismissed.

6. Dismissed. Sd/- A.M.BABU Sks/10.1.2019 JUDGE

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