

Lijeesh Vs. State of Kerala, Represented by the Sub Inspector of Police

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Court : Kerala

Decided On : Jul-13-2012

Judge : S.S. Satheesachandran

Appeal No. : Crl.MC.No.2438 of 2012

Appellant : Lijeesh

Respondent : State of Kerala, Represented by the Sub Inspector of Police

Judgement :

Petitioner is the 1st accused in Crime No.920 of 2011 of Tirur Police Station, registered for the offences punishable under Section 353 and 308 read with Section 34 of the Indian Penal Code. Investigation of that crime is now in progress. Petitioner has been enlarged on bail after his arrest on production before the Magistrate, subject to creation conditions which, among others, directed his to surrender his passport. Condition imposed to direct surrender of passport, after its production before the court, and his release from custody, is challenged invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, as illegal and unsustainable, The learned counsel for the petitioner has relied on **Suresh Nanda v. C.B.I. ((2008) 3 SCC 674)** to contend that retention of the passport even by order of the court would amount to impounding of that document, which cannot be done otherwise than under the provisions of the Passport Act. I do not find any merit in the submission made by the counsel. Grant of bail is subject to the discretion of the court atleast where the accused person is

proceeded with non-bailable offences. In exercise of the judicial discretion vested with the court to secure his presence for investigation, and also trial, it is open to the court to pass appropriate orders including imposition of a condition directing such accused person to produce and surrender his passport. Such a condition imposed by the court cannot be impeached as unsustainable under law as not in consonance with the provisions covered by the Passport Act. In such circumstance, modification of the bail condition canvassed by the petitioner with respect to the condition imposed for surrender of the passport cannot be entertained. However, I make it clear that release of the passport temporarily, if sufficient grounds are made, subject to such conditions as may be found necessary, can be ordered by the learned Magistrate, Provided, petitioner is entitled to such release of the passport temporarily during investigation/trial.

Subject to the above direction, the Crl.M.C. is dismissed.

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