
Sreemon Vs State Of Kerala

Bail Application No. 6941 Of 2023

Court: High Court Of Kerala

Date of Decision: Aug. 21, 2023

Acts Referred:

Indian Penal Code, 1860 " Section 376#Narcotic Drugs and Psychotropic Substances Act, 1985 " Section 20(b)(ii)(C), 22(c), 25, 27(A), 29#Wild Life Protection Act, 1972 " Section 2(16), 9, 29, 39(1), 39(2), 39(3)#Protection of Children from Sexual Offences Act, 2012 " Section 3, 4, 7, 8, 11(III), 12#Kerala Police Act, 2011 " Section 118

Hon'ble Judges: Viju Abraham, J

Bench: Single Bench

Advocate: Francis Assisit.D.Robinajeesh, S.Briteamrutha P Sbhadrha S.M., Sanal P.Raj

Final Decision: Dismissed

Judgement

Viju Abraham, J

1. This is an application for regular bail.

2. The petitioner is accused No.2 in Crime No.36/2021 of Excise Range Office, Ernakulam alleging commission of offences punishable under Sections

22(c), 25, 27(A) & 29 of the Narcotic Drugs and Psychotropic Substances Act.

3. The prosecution allegation is that, on 19.08.2021 at about 1.40 a.m, the Excise Enforcement and Anti Narcotic Special Squad, Ernakulam acting on

a tip-off conducted a search in Marhaba Apartment, Vazhakala, and seized 83.896 grams of MDMA illegally kept for sale in an apartment in the 1st

floor of C block and arrested the accused persons.

4. The learned counsel for the petitioner submitted that the petitioner is in custody from 19.08.2021 onwards. It is also submitted that the other

accused have been granted bail by this Court as per Annexures II to VIII orders. It is further submitted by the petitioner that his case will come within

the parameters laid down in the judgment of this Court in Fasil v. State of Kerala [2023 (3) KHC 212].

5. The learned Public Prosecutor opposed the application for bail mainly contending that huge quantity of contraband is involved in the above said case

and the petitioner has an active role in the commission of the offence. It is also submitted that the petitioner has serious criminal antecedents of having

involved in 5 other cases, out of which one is punishable under the NDPS Act and two cases are punishable under the POCSO Act. The details of the

crimes in which the petitioner is involved are given below:

1. NDPS CR-38/2021 Ero Ernakulam U/s 20(b)(ii)(C), 27A&29 of NDPS Act of 1985
2. ORNO-07/2021, Mekkappala forest Station, U/s 2(16), 9, 29, 39(1)(2)(3) of Wild Life Protection Act, 1972
3. CR-203/2016(SC-845/2016)Museum PS TVPM U/s-376IPC, 3, 4, 11(III)R/w 12 of POCSO ACT
4. CR-653/2016 Kozhikkode City Panniyangara PS U/s 118 of KP Act
5. CR-205/2018 Kozhikkode City Farokke PS(SC-125/2020)U/s-7&8 of POCSO ACT.

This, Court, has, called, for, a, report, from, the, trial, court regarding the present stage of the case and it is reported that the

charge was framed on 14.06.2023 and the matter is posted to 04.09.2023 for scheduling the case for trial. Considering the serious allegations against

the petitioner and also taking into consideration the fact that the petitioner is involved in five other cases including one case punishable under

NDPS Act and two cases punishable under the POCSO Act, I am of the opinion that the petitioner's case will not come within the parameters laid

down in Fasil's case cited (Supra), and therefore, the bail application is dismissed.