

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 29TH DAY OF APRIL 2014/9TH VAISAKHA, 1936

Bail Appl..No. 2708 of 2014 (C)

[F.I.R.NO.93/2013 IN CRIME NO. 40/2013 OF EXCISE ENFORCEMENT AND ANTI-NARCOTIC SPECIAL SQUAD, ERNAKULAM DISTRICT]
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PETITIONER/ACCUSED:

**JALLU RAHMAN SAIN,
S/O.MAFSA SAIN, AGED 27 YEARS,
GOPAL PUR POST OFFICE,
HEGALMANDA POLICE STATION, NADIA DISTRICT,
WEST BENGAL.**

BY ADV. SRI. P.M. HABEEB.

RESPONDENT:

**STATE OF KERALA,
ERNAKULAM, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 29-04-2014, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Prv.

P.D. RAJAN, J.

B.A. No.2708 of 2014

Dated this the 29th day of April, 2014

ORDER

The petitioner is the accused in Crime No.40/2013 of Excise Enforcement and Anti Narcotic Special Squad, Ernakulam for the offence punishable u/s.20(b) (ii) B of the NDPS Act, 1985. The prosecution allegation is that on 13.10.2013 at about 3 p.m., the petitioner was found in illegal possession of 2 kgs of dry ganja and thereby committed the offence. The petitioner was arrested and registered the above crime. After completing investigation, laid charge before Court, which was numbered as S.C.No.682/2013. The petitioner's bail application was dismissed by the Additional Sessions Judge-VIII, Ernakulam. Hence, he approached this Court with this bail application.

2. Heard both sides. The learned counsel appearing for the petitioner contended that he is in custody for six months and

he is ready to abide by any condition imposed by this Court. He will not abscond or influence the witness and he is ready to produce solvent sureties before Court.

3. The learned Public Prosecutor opposed the application and contended that the case is ripe for trial. The petitioner is in custody. If he is enlarged on bail at this stage, there is no possibility of getting his presence during trial. Moreover, no circumstances are brought before Court that he is not likely to commit similar offences.

4. I have considered the rival submission raised by both counsel. It is found that earlier bail application B.A.No.456/2014 was dismissed by this Court on 21.4.2014. 2Kg Ganja seized from the petitioner is above small quantity. According to Section 37(b)(ii), where the Public Prosecutor has been given an opportunity to oppose the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail. In this case, the petitioner is ready to co-operate with the trial and he assures that he will produce solvent sureties in support of

his release. It is plain from the language of Section 37(1)(b) that the court must adopt a negative attitude towards bail in NDPS cases.

5. Considering the nature of offence and seriousness of the allegation, I am of the opinion that the case is ripe for trial and if the petitioner is enlarged on bail at this stage, the trial will be delayed. In such circumstances, I decline to grant bail and accordingly, the bail application is dismissed.

However, the learned Judge is directed to give priority for trial of the case and dispose the case at the earliest.

P.D. RAJAN, JUDGE.

acd

