

(2022) 09 KL CK 0061

In the High Court Of Kerala

Case No : Criminal Miscellaneous Petition No. 6220 Of 2022

Sanil

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 15-09-2022

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)(B)

Citation : (2022) 09 KL CK 0061

Hon'ble Judges : A. Badharudeen, J

Bench : Single Bench

Advocate : Arun Chand, Renjit George

Final Decision : Allowed

Judgement

A. Badharudeen, J

1. This is a petition filed by the 2nd accused in S.C.No.1826/2022 on the file of Additional District and Sessions Court-V, Thiruvananthapuram.
2. The prayer in the petition is to direct the Additional District and Sessions Judge-V, Thiruvananthapuram to consider the regular bail application and petition for re-calling warrant moved on behalf of petitioner in S.C.No.1826/2022 on the date of surrender of the petitioner before the Sessions Judge.
3. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.
4. It is submitted by the learned counsel for the petitioner that the petitioner is innocent and he has been suffering from heart disease and he underwent angioplasty surgery as part of treatment. Annexures A2 and A3, copies of laboratory report and discharge summary dated 13.09.2021 is produced to substantiate the said contention. According to the learned counsel for the petitioner, since the petitioner has been suffering from cardiac disease, it is necessary in the interest of justice to give a direction as sought for.

5. In this matter, Annexure-A4 produced is the copy of bail order passed by this Court in B.A.Nos.2029 and 2371 of 2022 dated 24.08.2022. As per Annexure-A4, this Court denied anticipatory bail sought for by the petitioner after discussing the seriousness of the offences alleged to be committed by the petitioner under Section 20(b)(ii)(B) of NDPS Act. In fact, anticipatory bail was denied by this Court for valid reasons and in such a case, the petitioner wants to get disposal of his bail application on the date of surrender itself by the Sessions Court.

6. Since serious offences under Section 20(b)(ii)(B) of NDPS Act is alleged, directing the Sessions Court to dispose of the bail application on the date of surrender itself, cannot be considered, as a breathing time shall be given to the Sessions Court to consider the same on merits.

7. Therefore, I am inclined to direct the learned Sessions Judge to pass orders on the petition, if any, filed by the petitioner for bail and to re-call the warrant, after surrender, as early as possible, at any rate, within a period of three days from the date of filing the petition.

It is specifically ordered that the learned Sessions Judge shall pass orders purely on merits.

Accordingly, this Crl.M.C. stands allowed.