

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Bail Appl..No.2196 of 2015

CRIME NO.OR 1/14/NCB,KOCHI

...

PETITIONER/JUVENILE IN CONFLICT WITH LAW (2ND ACCUSED):

**SOMNATH MAJI,AGED 15 YEARS,S/O.SIMRAN MAJI,
POOTHAMPOOR BLOCK,THABLAHDA P.O,
RAIGAD DISTRICT,BIHAR.**

BY ADV.SRI.V.JOHN SEBASTIAN RALPH

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,REP. BY THE NCB,
REP. BY THEIR SPECIAL PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.R.REMA.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

K. RAMAKRISHNAN, J.

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B.A.No.2196 of 2015

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Dated this the 28th day of April, 2015.

O R D E R

This is an application filed by the petitioner, who is shown as the juvenile in conflict with law in OR.No.1/14/NCB/Kochi, for regular bail under section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 24.7.2014 the petitioner and one Manglu Majhi were found to be in possession of 24.905 kgs of ganja and it was recovered from the present petitioner while they were seen near at Aluva railway station and it is also revealed that they were abetted by some other persons and they tried to export the ganja and thereby all of them have committed the offences punishable under sections 20(b)(ii)(c), 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'the NDPS Act' for short).

3. The counsel for the petitioner submitted that the petitioner is aged only 15 years and a juvenile and he is not expected to be detained for a longer period even if it is found that he has committed the offence, no incarceration can be

possible and his father is prepared to take him on bail. The counsel also submitted that since the Juvenile Justice Board is sitting for few days in a month, the possibility of disposal of the case will take longer time and he will have to be unnecessarily in the observation home for longer period, which is against the interest of a juvenile.

4. The application was opposed by the Public Prosecutor for NCB on the ground that if he is released on bail, he is likely to involve in similar offences and his life will be in danger.

5. It is seen from the orders of the Juvenile Justice Board and also the sessions court that the petitioner along with another person by name Manglu Majhi were arrested from Aluva railway station on 24.7.2014 when they were found to be in possession of 24.905 kgs of ganja. It is also revealed that other accused persons were also involved and they are financing trafficking the narcotic substances and drugs and after complying with the formalities, OR.No.1/14/NCB/Kochi was registered for the offences under section 8(c) read with sections 20(b)(ii)(C), 28 and 29 of the NDPS Act. Since the present petitioner is a juvenile in conflict with law and he is a boy from Bihar, he was sent to observation home and he is in the

observation home now. It is submitted by both the counsel for the petitioner and Public Prosecutor for NCB that investigation has been completed and final report has been filed before the Juvenile Justice Board.

It is true that Juvenile Justice (Care & Protection of Children) Act, 2000 was enacted for the purpose of protecting juveniles aged up to 18 years and preventing them from involving in criminal activities and also to protect their interest. It is true that under section 12 of the said Act provisions have been made for they should not be sent to jail and they should not be tried along with other juveniles and special procedure has been provided for trying juvenile in conflict with law. It is also seen from section 12(1) of the said Act that if the court feels that there is reasonable ground to believe that the release is likely to bring him to association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice, then the court can deny bail to him. Here huge quantity of ganja was said to have been seized from the possession of the petitioner and it is also seen from the order of the courts below that the offence was committed in association with other people, who were involved

in trafficking narcotic drugs. However, the petitioner is a boy from Bihar. If he is released on bail, his presence could not be procured for trial. Further, the apprehension of the Public Prosecutor that if he is released on bail, he is likely to associate with other persons involving in criminal activities and involve in commission of similar offence and his life itself will be danger in the hands of persons involved in such activities, who have said to have used him in the commission of the offence cannot be ruled out. So under the circumstances, this Court feels that keeping him in observation home till the disposal of the case will be beneficial to the interest of the juvenile in conflict with law. The apprehension of the petitioner that it will take longer time for disposal of the case can be removed by directing the Juvenile Justice Board to consider and dispose of the case at the earliest. So, there is no illegality committed by the courts below in not granting bail to the petitioner and deciding to retain him in observation home during the pendency of the proceedings and I do not find any reason to interfere with the same as well in view of the discussions made above. But, considering the circumstance that the petitioner is in observation home since 24.7.2014 and final report has already

been filed in respect of the juvenile in conflict with law, who is the petitioner herein, this Court feels that Juvenile Justice Board can be directed to dispose of the case as expeditiously as possible, at any rate, within four months from the date of receipt of a copy of this order and issue direction accordingly.

With the above directions and observations, this petition is dismissed.

Office is directed to communicate a copy this order to the concerned Juvenile Justice Board immediately for compliance of the order.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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