

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.T. SANKARAN
&
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

CRL.A.No. 957 of 2015 (A)

AGAINST CONDITION NO.(d) IN THE ORDER GRANTING BAIL IN
Crl.M.P.No.287/2014 in S.C.No.01/2014/NIA/HYD OF THE SPECIAL COURT
FOR TRIAL OF NIA CASES, ERNAKULAM, KERALA DATED 29.06.2015.

APPELLANT/PETITIONER/ACCUSED NO.2:

ABDUL KALAM @ AZAD, AGED 41 YEARS
S/O. AHAMMEDKUTTY, RAHETH MANZIL HOUSE,
AAKKODU, MAZHAKKADU, MALAPPURAM DISTRICT.

BY ADVS. SRI.JAMSHEED HAFIZ
SRI.VIPIN NARAYAN

RESPONDENT/RESPONDENT/COMPLAINANT:

NATIONAL INVESTIGATION AGENCY, KOCHI,
REPRESENTED BY ITS SPECIAL PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY SRI.M.AJAY, SPL. P.P FOR NIA

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
12.10.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.T.SANKARAN &
RAJA VIJAYARAGHAVAN V., JJ.**

Crl.Appeal No.957 of 2015 (A)

Dated this the 12th day of October, 2015

JUDGMENT

K.T.Sankaran, J.

The appellant is accused No.2 in S.C.No.01/2014/NIA/HYD on the file of the Special Court for Trial of NIA Cases, Ernakulam. The offences alleged against him are under Sections 120B, 489B and 489C of the Indian Penal Code. He was arrested on 30.10.2013 and he was remanded to judicial custody. As per the order dated 29.6.2015 in Crl.M.P.No.287 of 2014, the Special Court for Trial of NIA Cases, Ernakulam granted bail to the appellant on the following conditions:

- “(a)The petitioner is granted bail on his executing bond for Rs.1,00,000/- with two solvent sureties each for like amount. One such surety shall be a close relation of the petitioner.
- (b) The sureties shall produce their title deeds along with the copy of the title deeds and the original title deeds on verification will be returned to them.

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- (c) The petitioner shall surrender his passport before this Court and if he does not have a passport or if the passport is under seizure by any other statutory authority, an affidavit to that effect shall be filed.
- (d) The petitioner shall not leave the limits of Malappuram District unless specific permission is granted by the court.”

2. The appellant challenges in this appeal the validity of condition (d) mentioned above.

3. Heard the learned counsel for the appellant as well as the learned Special Prosecutor appearing for the respondent.

4. The learned counsel for the appellant submitted that the appellant is undergoing treatment at Medical College Hospital, Kozhikode. It is also stated in the Memorandum of Criminal Appeal that the appellant is an accused in S.C.No.390 of 2014 on the file of the Additional Sessions Judge (Fast Track Court - I), Palakkad and the case is now posted for framing of charges. Annexure D shows that the office of the Commissioner of Customs, Panambur,

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Mangalore, Karnataka State has imposed a penalty of ₹1,25,00,000/- under Section 114(i) of the Customs Act. It is submitted that the appellant has to challenge the order imposing penalty upon him and for that purpose he has to meet his lawyer at Mangalore and do the needful. Annexures E and F have been produced to show that the wife of the appellant had undergone a heart surgery and she needs follow up treatment and for that purpose the appellant has to take his wife to the Medical College Hospital, Kozhikode.

5. Taking into account the facts and circumstances of the case and taking a humanitarian approach in spite of the fact that the allegations against the appellant are very serious in nature, we are of the view that condition (d) in the order impugned requires modification. Accordingly, condition (d) is modified and substituted as follows:

Ordinarily, the appellant shall not leave the limits of Malappuram District until further orders except for the following: (i) For his treatment and for taking his wife for treatment at the Medical College Hospital, Kozhikode; (ii) For appearing before the Sessions

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Court, Palakkad in S.C.No.390 of 2014 and for meeting his counsel at Palakkad for that purpose; (iii) For appearing before the Special Court for Trial of NIA Cases, Ernakulam in the present case, in which the order impugned was passed, and to meet his Advocate at Ernakulam on the date of posting of the case. If the appellant intends to move out of Malappuram District for the aforesaid purposes, he shall inform about the same to the Deputy Superintendent of Police, NIA, Kochi at least on the previous day, either by e-mail or by telephonic message. (iv) If the appellant wants to go out of the State, he shall get specific permission of the court below and for that purpose, he would be entitled to meet his Advocate at Ernakulam, with prior intimation to the Deputy Superintendent of Police, NIA, Kochi.

The Criminal Appeal is partly allowed as above.

K.T.SANKARAN
Judge

RAJA VIJAYARAGHAVAN V.
Judge

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