
(2024) 02 KL CK 0059

High Court Of Kerala

Case No: Bail Application No. 587 Of 2024

Akhil Mohan

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Feb. 8, 2024

Acts Referred:

Code of Criminal Procedure, 1973 " Section 439#Narcotic Drugs and Psychotropic Substances Act, 1985 " Section 20(b)ii(B)

Citation: (2024) 02 KL CK 0059

Hon'ble Judges: C.S.Dias, J

Bench: Single Bench

Advocate: P.Anoop, Neema T V

Final Decision: Allowed

Judgement

C.S.Dias, J

1. The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the 1st accused in Crime No.44/2024 of the Kottarakara

Police Station, Kollam, registered against the accused (two in number) for allegedly committing the offence under Section 20(b)(ii)(B) of the Narcotic

Drugs and Psychotropic Substances Act, 1985 (in short, 'NDPS Act'). The petitioner was arrested on 07.01.2024.

2. The gist of the prosecution case is that: on 07.01.2024 at around 12.30 p.m., the accused 1 and 2 were found in possession of 1.751 kilograms of

ganja, near the Polikot Junction facing the M.C.Road, wrapped in a shoulder bag for the purpose of sale. Thus, the accused have committed the above

offence.

3. Heard Sri.P.Anoop, learned counsel appearing for the petitioner and Smt.Neema T.V., the learned Senior Public Prosecutor.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in the crime. He is totally innocent of the

accusation levelled against him. The petitioner has no criminal antecedents. The petitioner is in judicial custody since 07.01.2024, which is more than a

month. The investigation in the crime is practically complete and recovery has been effected. The petitioner's further detention is not necessary.

Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the application. She contended that the investigation in the case is in progress. If the petitioner is let off on

bail, there is every likelihood of him committing similar offences. The petitioner has criminal antecedents since he has committed offences under the

Indian Penal Code. Nonetheless, she conceded to the fact that the contraband that was seized from the petitioner and the 2nd accused is of an

intermediate quantity and the petitioner is not involved in cases under the NDPS Act. She also conceded to the fact that the investigation in the case is

practically complete and the recovery has been effected.

6. On a consideration of the facts, the materials placed on record, the rival submissions made across the Bar, especially taking into account the fact

that the contraband that was seized from the accused is only of an intermediate quantity, that the petitioner is not involved in another NDPS cases,

that the investigation in the case is practically complete and recovery has been effected, I am of the definite view that the petitioner is entitled to be

released on bail.

In the result, the application is allowed, by directing the petitioner to be released on bail on him executing a bond for Rs.1,00,000/- (Rupees one lakh

only) with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following

conditions:

(i) The petitioner shall appear before the Investigating Officer on every Saturday between 9 a.m. and 11 a.m for a period of three months or till the final report is filed,

whichever is earlier. He shall also appear before the Investigating Officer as and when required;

(ii) The petitioner shall not directly or indirectly make any inducement, threat or procure to any person acquainted with the facts of the case so as to dissuade him

from disclosing such facts to the court or to any Police Officer or tamper with the evidence in any manner, whatsoever;

(iii) The petitioner shall not commit any offence while he is on bail;

(iv) The petitioner shall surrender his passport, if any, before the court below at the time of execution of the bond. If he has no passport, he shall file an affidavit to

the effect before the court below on the date of execution of the bond;

(v) In case of violation of any of the conditions mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if

any filed, and pass orders on the same, in accordance with law.

(vi) Applications for deletion/modification of the bail conditions shall be filed and entertained before the court below.

(vii) Needless to mention, it would be well within the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the

information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)*

and another [2020 (1) KHC 663].