

(2024) 02 KL CK 0089

High Court Of Kerala

Case No: Bail Application No. 965 Of 2024

Jibi George

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Feb. 12, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Kerala Abkari Act.I of 1077 - Section 55(i), 63

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

Bench: Single Bench

Advocate: N.L.Bitto, 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 sole accused in crime No.4/2024 of the Chalakkudy Excise Range, Thrissur, registered against him for allegedly committing the offences punishable under Sections 55(i) and 13 read with Section 63 of the Kerala Abkari Act. The petitioner was arrested on 01.02.2024.

2. The essence of the prosecution case is that: On 01.02.2024 at about 12.50 p.m, the accused was found in possession of 7.5 litres of Indian made foreign liquor which was meant for sale. Thus, the accused has committed the above offences.

3. Heard; Sri.N.L. Bitto, the learned counsel appearing for the petitioner and Smt. Neema. T.V, the learned Public Prosecutor appearing for the respondent.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations levelled against him. He has been falsely implicated in the crime. The petitioner has been in judicial custody since 01.02.2024. The investigation in the case is complete and recovery has been effected. The petitioner's continued detention is unnecessary. Hence, the petitioner may be released on bail.

5. The learned Public Prosecutor opposed the application. Nonetheless, he conceded to the fact that the petitioner has been in judicial custody since 01.02.2024., the recovery has been effected and the petitioner has no criminal antecedents.

6. After bestowing my anxious consideration to the materials placed on record, particularly taking note of the fact that the petitioner has been in judicial custody since 01.02.2024, that the recovery has been effected, that the petitioner has no criminal antecedents and that the investigation in the case is practically complete, I am of the view that petitioner's continued detention is not necessary. Hence, 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.50,000/- (Rupees Fifty Thousand 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 two months or till the final report is laid, 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 moved and entertained by 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].