

(2024) 07 KL CK 0106

High Court Of Kerala

Case No: Bail Application No.5007 Of 2024

Thanu Nahak

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: July 31, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Narcotic Drugs and Psychotropic Substances Act, 1985 - Section 22(b)(ii)B

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

Bench: Single Bench

Advocate: Anupama Subramanian, K.R.Sripathi, Vinubhai K.V., 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 by the sole accused in Crime No.761/2024 of the Town East Police Station, Thrissur, which is registered against her for allegedly committing the offence punishable under Section 22(b)(ii)B of the the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'the Act'). The petitioner was arrested and remanded to judicial custody on 03.05.2024.

2. The gist of the prosecution case is that: on 03.05.2024, at around 13.45 hours, the accused was found in conscious possession of 2.070 kilograms of ganja. She was arrested on the spot with the contraband article. Thus, the accused has committed the above offence.

3. Heard; Smt.Anupama Subramanian, the learned counsel appearing for the petitioner and Smt.Neema T.V., the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations leveled against her. She has been falsely implicated in the crime. In any given case, the petitioner has been in judicial custody for the last 86 days, the petitioner has no criminal antecedents, the contraband that was allegedly seized from the accused is of an intermediate quantity, the investigation in the case is practically complete, and recovery has been effected. Therefore, the petitioner's further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the application. She submitted that the investigation in the case is in progress. She also submitted that if the petitioner is let off on bail, there is every likelihood of her committing similar offences. Nonetheless, she did not dispute the fact that the petitioner doesn't have any criminal antecedents and the contraband involved in the case is of an intermediate quantity.

6. After bestowing my anxious consideration to the facts, the rival submissions made across the Bar, and the materials placed on record, especially on considering the fact that the contraband allegedly seized from the accused is of an intermediate quantity, the petitioner does not have any criminal antecedents, the petitioner has been in judicial custody for the last 86 days, the investigation in the case is practically complete and the recovery has been effected, I am of the view that the petitioner's further detention is unnecessary. Hence, I hold 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 her 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 two months or till the final report is filed, whichever is earlier. She 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 her 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 she is on bail;

(iv) The petitioner shall surrender her passport, if any, before the court below at the time of execution of the bond. If she has no passport, she 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]**.