

Ashik Babu Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Aug. 22, 2024

Acts Referred: Bharatiya Nagarik Suraksha Sanhita, 2023 " Section 483
Narcotic Drugs and Psychotropic Substances Act, 1985 " Section 20(b)(ii)(B)

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

Bench: Single Bench

Advocate: Basil Chandy Vavachan, Georgie Simon, Charutha Bhaiju, Chandhana Bhaiju, Basil Sajan, Fathim Navas, Kavya P.R., Lekshmi Priya V., Basil Scaria, Seetha S

Final Decision: Allowed

Judgement

C.S.Dias, J

1. The application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, 'BNSS'), by the sole accused in Crime

No.18/2024 of the Excise Range Office, Kayamkulam, which is registered against the accused for allegedly committing the offence punishable under

Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, "the Act"). The petitioner was arrested and

remanded to judicial custody on 09.07.2024.

2. The gist of the prosecution case is that: on 09.07.2024, at around 12:30 hours, the accused was found in conscious possession of 2.20 kilograms of

ganja which was meant for sale. The accused was arrested on the spot with the contraband article. Thus, the accused has committed the above

offence.

3. Heard; Sri.Basil Chandy Vavachan, the learned counsel appearing for the petitioner and Smt.Seetha S., the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations leveled against him. He has been falsely

implicated in the crime. In any given case, the petitioner has been in judicial custody since 09.07.2024, 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 him committing a similar offence. 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, that the petitioner has no criminal

antecedents, that the petitioner has been in judicial custody since 09.07.2024, that the investigation in the case is practically complete, and that 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 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:

Ã, (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. 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) Application 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].