

(2024) 11 KL CK 0133

High Court Of Kerala

Case No: Bail Application No. 9605 Of 2024

Jayaprakash

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Nov. 27, 2024

Acts Referred:

- Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 483
- Kerala Abkari Act, 1 of 1077 - Section 8(1), 8(2), 55(b), 55(i)

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

Bench: Single Bench

Advocate: Aaron Zacharias Benny, P.M.Rafiq, Ajeesh K.Sasi, M.Revikrishnan, Sruthy N. Bhat, Sruthy K.K, Nanditha S., Rahul Sunil, K.Aravind Menon, Sohail Ahammed Harris, Pushpalatha. M.K

Final Decision: Allowed

Judgement

C.S.Dias, J

1. The application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, by the sole accused in Crime No.1494/2024 of the Kunnamkulam Police Station, Thrissur, which is registered against him for allegedly committing the offences punishable under Sections 8(1), 8(2), 55(b) and 55(i) of the Kerala Abkari Act 1 of 1077 (for short "the Act").
2. The petitioner was remanded to judicial custody on 04.11.2024.
3. The crux of the prosecution case is that; on 03.11.2024, at around 14:40 hours, the accused was found in conscious possession of 17 litres of arrack, 150 litres of wash, and other utensils that are used for distilling arrack. The accused was arrested on the spot with the contraband articles. Thus, the

accused has committed the above offences.

4. Heard Sri. Aaron Zacharias Benny, learned counsel appearing for the petitioner and Smt. Pushpalatha. M.K, the learned Senior Public Prosecutor.

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 04.11.2024, the investigation in the case is practically complete, and recovery has been effected. Moreover, the petitioner does not have any criminal antecedents. Hence, the petitioner may be released on bail.

5. The learned Public Prosecutor opposed the application. She submitted that the investigation is in progress. If the petitioner is released on bail, he would commit a similar offence. Hence, the application may be dismissed.

6. On an anxious consideration of the facts, the rival submissions made across the Bar and the materials placed on record, especially on considering the fact that the petitioner has been in judicial custody since 04.11.2024, that the investigation in the case is practically complete, and that the recovery has been effected, and further that the petitioner does not have any criminal antecedents, I am of the firm view that the petitioner's further detention is unnecessary. 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 alternate Saturday between 9 a.m. and 11 a.m till the final report is filed. 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 them 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 jurisdictional court at the time of execution of the bond. If he has no passport, he shall

file an affidavit to the effect before the jurisdictional court 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 Jurisdictional Court

(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 Anr. [2020 (1) KHC 663].