

Sunil Vs. State of Kerala

Sunil Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1166546

Court : Kerala

Decided On : Oct-27-2014

Judge : Honourable Mr. Justice B.Kemal Pasha

Appellant : Sunil

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE B.KEMAL PASHA MONDAY, THE 27TH DAY OF OCTOBER 2014 5TH KARTHIKA, 1936 Bail Appl..No. 7268 of 2014 ()
----- CRIME NO. 37/2014 OF CHAVAKKAD EXCISE RANGE OFFICE , THRISSUR PETITIONERS/ACCUSED NOS. 1 & 2:
----- 1. SUNIL, AGED 46 YEARS S/O. KUNJUKUTTAN, STHANAPARAMBIL HOUSE, NEZHIYOOR DESOM POOKKODU VILLAGE, CHAVAKKAD TALUK.

2. JAYAN, AGED 38 YEARS S/O. KRISHNAN NAIR, AMBADU VAYALIL, PARATHALA DESOM PULIYANNOOR, MEENACHIL VILLAGE, KOTTAYAM DISTRICT. BY ADV. SRI.NIREESH MATHEW RESPONDENT/COMPLAINANT:
----- STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM-682031. R BY PUBLIC PROSECUTOR SMT.BINDU GOPINATH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27-10-2014, THE COURT ON THE

SAME DAY PASSED THE FOLLOWING: B. KEMAL PASHA, J.

..... B.A. No.7268 of 2014
..... Dated this the 27th day of October,
2014

ORDER

~ ~ ~ ~ ~ Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 and 2 in Crime No.37/2014 of Chavakkad Excise Range registered for the offences punishable under Sections 57(a) and 56(b) of the Abkari Act.

3. The petitioners are allegedly the employee and licensee of toddy shop No.59/2013-14 of Chavakkad Excise range. When the sample of toddy taken from the said shop was subjected to chemical analysis, it was found containing 8.36% by volume of Ethyl Alcohol as against the permissible quantity of 8.1% by volume fixed as per Rule 9(2) of the Kerala Abkari Shops Disposal Rules, 2002.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

5. It has come out that any noxious substance was BA.7268/2014 :

2. : not traced out in the sample of toddy collected from the shop. There is a minor variation of the percentage of Ethyl Alcohol. It seems that the permissible quantity is 8.1% by volume, whereas the quantity traced out in the sample is 8.36% by volume. It seems that the constitutional validity of Rule 9(2) of the Kerala Abkari Shops Disposal Rules, 2002 is in question before the Apex court and the question has not been decided. By considering the variation as a minor variation and in the absence of any noxious substance in the sample, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioners.

6. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners on bail in the event of their arrest on each of them executing a bond for `1,00,000/- (Rupees one lakh only) with two solvent sureties

each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:- BA.7268/2014 :

3. : (i) The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Mondays and Thursdays, commencing from 06.11.2014 for a period of three months or till the filing of the final report in this case, whichever is earlier. (ii) The petitioners shall not tamper with the evidence or influence witnesses. (iii) The petitioners shall make themselves available for interrogation as and when required by the investigating officer. (iv) The petitioners shall not involve in any offence while on bail. It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail. Sd/- (B.KEMAL PASHA, JUDGE) aks/27/10 // True Copy // PA to Judge

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com