

Mini vs State of Kerala

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Court : Kerala

Decided On : Mar-28-2025

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./3986/2025

Appellant : MINI

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947
BAIL APPL. NO. 3986 OF 2025 CRIME NO.48/2024 OF MAVELIKKARA
EXCISE RANGE OFFICE, ALAPPUZHA AGAINST THE
ORDER/JUDGMENT DATED IN BAIL APPL. NO.5094 OF 2024 OF
HIGH COURT OF KERALA PETITIONER(S)/ACCUSED: MINI AGED 48
YEARS D/O CHINNAMMA, AGED 47 YEARS, CHIRATHARA SAJAN
VILLA, CHENNITHALA, KIZHAKKU MURI, THRIPPERUMTHARA
VILLAGE, MAVELIKARA TALUK, ALAPPUZHA DISTRICT, PIN -
690105 BY ADVS. M.J.SANTHOSH ANTONY PAUL HASEENA T.
RESPONDENT(S)/COMPLAINANT: STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 BY ADV. SR PP - SRI. NOUSHAD K A THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: P.V.KUNHIKRISHNAN, J -----
----- Dated this the 28th day of March, 2025

ORDER

This Bail Application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita.

2. Petitioner is an accused in Crime No.48/2024 of

Mavelikara Excise Range Office, Alappuzha. The above case is registered against the petitioner alleging offences punishable under Sections 58 & 55(a) of the Kerala Abkari Act.

3. The prosecution case is that the accused was found in possession of one litre of Indian Made Foreign Liquor. Hence it is alleged that the accused committed the above said offences.

4. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor.

5. Counsel for the petitioner submitted that the

petitioner is ready to abide any conditions if this Court grants her bail. Even though the contraband was seized, she was not arrested by the detecting officer. The counsel submitted that the petitioner is ready to cooperate with the investigation.

6. The Public Prosecutor opposed the bail application and submitted that there are criminal antecedents to the petitioner.

7. This Court considered the contentions of the

petitioner and the Public Prosecutor. Admittedly the seized article is only one litre of Indian Made Foreign Liquor which is available in the market. Considering the facts and circumstances of the case and also considering the fact that the petitioner is a lady, I think this bail application can be allowed on stringent conditions.

8. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble

Supreme Court in Chidambaram. P v. Directorate of Enforcement [2019 (16) SCALE 870], after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

9. Recently the Apex Court in Siddharth v. State of Uttar Pradesh and Another [2021(5)KHC 353] considered

the point in detail. The relevant paragraph of the above judgment

is extracted hereunder.

12. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. (Joginder Kumar v. State of UP and Others (1994 KHC 189:

(1994) 4 SCC 260: 1994 (1) KLT 919: 1994 (2) KLJ 97: AIR

1994 SC 1349: 1994 Cri LJ 1981)) If arrest is made routine, it can cause incalculable harm to the reputation and self- esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on

the officer to arrest the accused.

10. In *Manish Sisodia v. Central Bureau of*

Investigation [2023 KHC 6961], the Apex Court observed that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case.

11. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following directions:

1. The petitioner shall appear before the Investigating Officer within two weeks from today and shall undergo interrogation.

2. After interrogation, if the

Investigating Officer propose to arrest the petitioner, she shall be released on bail on executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the arresting officer concerned.

3. The petitioner shall appear

before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise 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.

4. Petitioner shall not leave India without permission of the jurisdictional Court.
5. Petitioner shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.
6. 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].

7. The observations and findings

in this order is only for the purpose of deciding this bail application. The principle laid down by this Court in *Anzar Azeez v. State of Kerala* [2025 SCC OnLine KER 1260] is applicable in this case also.

8. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law,

even though the bail is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional Court to cancel the bail, if any of the above conditions are violated. Sd/- P.V.KUNHIKRISHNAN, JUDGE DM

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