

Swathy Krishna vs State of Kerala

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Court : Kerala

Decided On : Feb-13-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./625/2024

Appellant : Swathy Krishna

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 13TH DAY OF FEBRUARY 2024 / 24TH MAGHA, 1945 BAIL APPL. NO. 625 OF 2024 CRIME NO.01/2024 OF KALADY EXCISE RANGE OFFICE, ERNAKULAM PETITIONER/ACCUSED: SWATHY KRISHNA AGED 28 YEARS D/O REMA VAYANATHARA HOUSE, KAVUMPURAM, KURUPPAMPADY P.O ERNAKULAM,, PIN - 683545 BY ADVS. FRANCIS ASSISI AJEESH S.BRITE T.D.ROBIN AMRUTHA P S RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 BY SR PP SMT NEEMA T V THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13.02.2024,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Dated this the 13th day of February, 2024

ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the sole accused in Crime No.01/2024 of the Kalady Excise Range Office, Ernakulam, registered against her for allegedly committing the offences under Sections 20(b) (ii)(A) and 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, the Act). The petitioner was arrested on 07.01.2024.

2. The essence of the prosecution case is that; on

07.01.2024 around 2.15 p.m, while the excise party conducted a search at Mattur, they found that the accused in possession of 2.781 grams of MDMA and 20 grams of Ganja. Thus, the accused has committed the above offences.

3. Heard Sri.Francis Assisi, the learned counsel appearing for the petitioner and Smt.Neema. T.V., the learned Senior Public Prosecutor appearing for the respondent.

4. The learned counsel appearing for the

petitioner submitted that the petitioner is totally innocent of the accusations levelled against her. The petitioner has been falsely implicated in the crime. The petitioner has been in judicial custody for the last one month. Even going by the prosecution case, the contraband articles that were seized from the petitioner are of an intermediate quantity. The petitioner has no criminal antecedents. The petitioner is willing to abide by any stringent condition that may be imposed by this Court. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the application. She contended that the contraband articles were seized from the conscious possession of the petitioner. The investigation in the case is in progress. Hence, the application may be dismissed.

6. On a consideration of the facts, the materials

placed on record, the rival submissions made across the Bar, particularly taking note of the fact that the contraband articles that were allegedly seized from the petitioner are of an intermediate quantity, that the petitioner has no criminal antecedents, that the investigation in the case is practically complete and the recovery has been effected, I am of the definite view that the petitioners continued detention is not necessary. Hence, I am inclined to allow the application. 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 three 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]. Sd/- C.S.DIAS, JUDGE mtk/13.02.24 APPENDIX OF BAIL APPL. 625/2024 PETITIONER ANNEXURES ANNEXURE -I A TRUE COPY OF THE ADHAR CARD OF THE PETITIONER'S DAUGHTER NAMELY KSHETHRA KANWAL

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