

Radhakrishnan vs State of Kerala

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Court : Kerala

Decided On : Apr-23-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./3011/2024

Appellant : Radhakrishnan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 BAIL APPL. NO. 3006 OF 2024 CRIME NO.6/2024 OF Ottapalam Forest Range Office, Palakkad PETITIONER/3RD ACCUSED: RADHAKRISHNAN AGED 48 YEARS S/O SANKARAN, MOOLAYILTHODI, PUTHUKKATTIL, ONGALLUR, PAVUKONAM, OTTAPALAM, PALAKKAD, PIN - 679522 BY ADVS. V.A.VINOD SUHAIL M. RESPONDENTS/STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 FOREST RANGE OFFICER OTTAPALAM FOREST RANGE OFFICE, PALAKKAD, PIN - 679101 OTHER PRESENT: SR PP

TV NEEMA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH Bail Appl..3010/2024, 3011/2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 BAIL APPL. NO. 3010 OF 2024 CRIME NO.7/2024 OF Ottapalam Forest Range Office, Palakkad PETITIONER/3RD ACCUSED: RADHAKRISHNAN AGED 48 YEARS S/O SANKARAN, MOOLAYILTHODI, PUTHUKKATTIL, ONGALLUR, PAVUKONAM, OTTAPALAM, PALAKKAD, PIN - 679522 BY ADVS. V.A.VINOD SUHAIL M. RESPONDENTS/STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 FOREST RANGE OFFICER OTTAPALAM FOREST RANGE OFFICE, PALAKKAD, PIN - 679101 SR PP T V NEEMA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH Bail Appl..3006/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 BAIL APPL. NO. 3011 OF 2024 CRIME NO.8/2024 OF Ottapalam Forest Range Office, Palakkad PETITIONER/3RD ACCUSED: RADHAKRISHNAN AGED 48 YEARS S/O SANKARAN, MOOLAYILTHODI, PUTHUKKATTIL, ONGALLUR, PAVUKONAM, OTTAPALAM, PALAKKAD, PIN - 679522 BY ADVS. V.A.VINOD SUHAIL M. RESPONDENTS/STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 FOREST RANGE OFFICER OTTAPALAM FOREST

RANGE OFFICE, PALAKKAD, PIN - 679101 BY SR PP C.S HRITHWIK
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
23.04.2024, ALONG WITH BAIL APPL..3006/2024 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: Dated this the 23rd day of April, 2024 COMMONORDER
These applications are filed under Section 439 of the

Code of Criminal Procedure, 1973, by the third accused in Crime Nos.6, 7, and 8
of 2024 of the Ottappalam Forest Range Office, Palakkad, registered against him
for allegedly committing the offences under Sections 27(1)(e)(iii)(iv), 47(C), and
47(G) of the Kerala Forest Act. The petitioner was arrested in crime No.231/2024
of the Ottappalam Police Station on 12.03.2024, and his formal arrest was
recorded in the present three crimes on 14.03.2024.

2. The common prosecution case is that; on

12.03.2024, the Sub Inspector of Police found the accused in possession of
sandalwood logs inside a shed at Kottekulam, which was intended for the purpose
of sale, without any license along with weapons. The police registered Crime
No.231/2024 and conducted the investigation. Then, it was learnt that the
sandalwood was stolen from the Ottappalam Forest Range. Thus, the accused
has committed the above offences.

3. Heard; Sri. V.A. Vinod, the learned counsel appearing for the petitioner and
Smt. Neema. T.V and Sri.C.S. Hrithwik, the learned Public Prosecutors.

4. The learned counsel for the petitioner

submitted that the petitioner is totally innocent of the accusations levelled against
him. The petitioner is only a coolie worker. The petitioner has no involvement in
the case, and he is the sole breadwinner of the family. Other than the present four
cases registered in connection with the same incident, the petitioner does not have
any criminal antecedents. In any given case, the petitioner has been in judicial
custody since 12.03.2024, which is 40 days, the investigation in the case is
complete, and

the recoveries have been effected. Therefore, the petitioner's further detention is unnecessary. Hence, these applications may be allowed.

5. The learned Public Prosecutors opposed the applications. They submitted that the investigation is in progress. If the petitioner is released on bail, there is every likelihood of him committing similar offences. Hence, these applications may be dismissed.

6. On an evaluation of the materials placed on

record, it can be seen that the petitioner was arrested on 12.03.2024, in Crime No.231/2024, which was also registered on the allegation that the petitioner was found in possession of sandalwood. Subsequently, the present three crimes were registered by the Ottappalam Forest Range Office. The fact remains that the petitioner was in judicial custody for the last 40 days, the investigation in the case is practically complete, and the recoveries have been effected.

7. In *Sanjay Chandra v. CBI*, [2012 1 SCC 40], the

Honourable Supreme Court has categorically held that the fundamental postulate of criminal jurisprudence is the presumption of innocence, until a person is found guilty. Any imprisonment prior to conviction is to be considered as punitive and it would be improper on the part of the Court to refuse bail solely on the ground of former conduct.

8. In *Dataram Singh v. State of U.P.*, [(2018) 3

SCC 22] the Honourable Supreme Court observed that grant of bail is the rule and putting a person in jail is an exception. Even though the grant of bail is entirely the discretion of the court, it has to be evaluated based on the facts and circumstances of each case and the discretion has to be exercised in a judicious and compassionate manner.

9. Subsequently, in *State of Kerala v. Raneef*, [(2011) 1 SCC 784], the Honourable Supreme Court has

again held that undertrial prisoners detained in jail for indefinite periods, without any sufficient reason or due to the delay in concluding the trial, will tantamount to infringement of their right to life guaranteed under Article 21 of the Constitution.

10. On an anxious consideration of the facts, the

rival submissions made across the Bar, and the materials placed on record, especially on comprehending the fact that the petitioner has been in judicial custody for the last 40 days, that the investigation in the case is complete, and the recoveries have been effected, I am of the definite view that the petitioners further detention is not necessary. Hence, I am inclined to allow these bail applications.

In the result, these applications are allowed, by directing the petitioner to be released on bail on him executing a bond for Rs.50,000/- in each of the cases (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 Saturday between 9 a.m. and 11 a.m till the final report is laid in all the cases. 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) Applications for deletion/modification of the bail conditions shall be moved and entertained by 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/-
mtk/23.04.24 C.S.DIAS, JUDGE

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