

Sanalkumar vs State of Kerala

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Court : Kerala

Decided On : May-24-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./4132/2024

Appellant : Sanalkumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 24TH DAY OF MAY 2024 / 3RD JYAISHTA, 1946 CRIME NO.32/2024 OF Thirupuram Excise Range Office, Thiruvananthapuram AGAINST THE ORDER/JUDGMENT IN CMP NO.2481 OF 2024 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, NEYYATTINKARA PETITIONER/S: SANALKUMAR AGED 45 YEARS S/O MANIYAN RESIDING AT TM NIVAS, CHERUVALAYIKKAL NEAR KODANGAVILA, KOTTUKONAM PENTHACOST CHURCH ATHIYANOOR NOW RESIDING AT THARISU VEEDU NEDUMKOTTUKONAM KOCHOTTUKONAM MARIYAPURAM CHENKAL NEYYATTINKARA THIRUVANANTHAPURAM DISTRICT -, PIN - 695122

BY ADVS. S.K.ADHITHYAN SHAHINA NOUSHAD REUBEN CHARLY
RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 EXCISE
INSPECTOR THIRUPURAM EXCISE RANGE 936H+JVX,
THIRUPURAM, KERALA THIRUVANANTHAPURAM, PIN - 695133
OTHER PRESENT: SR PP SMT SEETHA S THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 24.05.2024, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the sole accused in Occurrence Report No.32/2024 of the Thirupuram Excise Range Office, Thiruvananthapuram, registered against him for allegedly committing the offences punishable under Sections 8(1) & 8(2) and 55(g) of the Kerala Abkari Act 1 of 1077. The petitioner was arrested on 20.04.2024.

2. The crux of the prosecution allegation is that: on

18.04.2024, at around 22.30 hours, the accused was found in possession of 2.50 liters of arrack and 100 liters of wash along with other equipments for the purpose of distilling arrack. The accused was arrested at the spot with the contraband articles. Thus, the accused has committed the above offences.

3. Heard; Sri.S.K.Adhithyan, the learned counsel appearing for the petitioner and Smt.Seetha S., the learned 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 20.04.2024, 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. She also stated that if the petitioner is released on bail, he would commit 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 20.04.2024, that the contraband involved in the case is of a small quantity, that the petitioner does not have any criminal antecedents, that the investigation in the case is practically complete and recovery has been effected, I am of the 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 Saturday between 9 a.m. and 11 a.m for a period of two months or till the final report is laid, whichever is earlier. 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 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 Anr. [2020 (1) KHC 663].

sd/- C.S.DIAS,JUDGE rkc/24.05.24 APPENDIX OF BAIL APPL. 4132/2024
PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE REMAND
REPORT FILED BEFORE JFCM NEYYATTINKARA IN CMP.NO.2481/2024
DATED 18.04.2024 Annexure A2 TRUE COPY OF THE BAIL APPLICATION
FILED BEFORE THE COURT OF THE ADDITIONAL SESSIONS JUDGE -
THIRUVANANTHAPURAM AS IN CRL. M.C. NO. 1171/2024 IN DATED Annexure
A3 TRUE COPY OF THE ORDER IN CRL. M.C. NO. SESSIONS JUDGE -
THIRUVANANTHAPURAM DATED

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