

Subin, vs State of Kerala,

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Court : Kerala

Decided On : Aug-07-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./5968/2024

Appellant : SUBIN,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY,
THE 7TH DAY OF AUGUST 2024 / 16TH SRAVANA, 1946 CRIME
NO.569/2024 OF OCHIRA POLICE STATION, KOLLAM AGAINST THE
ORDER/JUDGMENT DATED 11.07.2024 IN CRMC NO.1370 OF 2024
OF DISTRICT COURT & SESSIONS COURT,KOLLAM

PETITIONER: SUBIN AGED 25 YEARS S/O.SURENDRAN, PARACKAL
HOUSE, VADUTHALA, PANMANA, KOLLAM -, PIN - 691583 BY ADVS.
PRATHEESH.P AMAR PRASANTH G. ANJANA KANNATH MARIYA
JOSE RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031 2 STATION HOUSE OFFICER OACHIRA POLICE

STATION, KOLLAM DISTRICT –, PIN - OTHER PRESENT: SR
PP SRI C S HRITHWIK THIS BAIL APPLICATION HAVING COME UP
FOR ADMISSION ON 07.08.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

This application is filed under Sec. 483 of the BNSS by the 2nd accused in Crime No.569/2024 of the Oachira Police Station, Kollam which is registered against the 3 accused persons for allegedly committing the offences punishable under Secs.22(b) and Sec.29 of the NDPS Act. The petitioner was arrested and remanded to judicial custody on 13.06.2024.

2. The prosecution, in brief, is that on 12.06.2024, at

around 23.10:00 hrs, the 1st accused was found in conscious possession of 4.2 Gms of MDMA. During the course of the interrogation of the 1st accused, it was learned that the accused 2 & 3 had provided the contraband to the 1st accused. Accordingly, accused Nos.2 & 3 were also arrested in the Crime. Thus, the accused has committed the above offences.

3. Heard; Sri.Pratheesh P, learned Counsel appearing for the petitioner and Sri.C.S.Hrithwik, learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that the

petitioner is totally innocent of the accusations leveled against him. He has been falsely implicated in the crime. In any given case, the petitioner has been in judicial custody since 13.06.2024, the petitioner has no criminal antecedents, the contraband that was allegedly seized from the accused is of an intermediate quantity, the investigation in the case is practically complete, and the recovery has been effected. Therefore, the petitioners further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the application.

She submitted that the investigation in the case is in progress. She also submitted that if the petitioner is let off on bail, there is every likelihood of him committing similar offences. Nonetheless, she did not dispute the fact that the petitioner doesn't have any criminal antecedents and the contraband involved in the case is of an intermediate quantity.

6. After bestowing my anxious consideration to the facts,

the rival submissions made across the Bar, and the materials placed on record, especially on considering the fact that the contraband allegedly seized from the accused is of an intermediate quantity, that the petitioner has no criminal antecedents, that the petitioner has been in judicial custody since 13.06.2024, that the investigation in the case is practically complete, and that the recovery has been effected, I am of the view that the petitioners further detention is unnecessary. Hence, I hold that 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.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 two months or till the final report is filed, 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 another [2020 (1) KHC 663]. sd/- C.S.DIAS JUDGE

Nsd APPENDIX OF BAIL APPL. 5968/2024 PETITIONER ANNEXURES
Annexure A1 THE COPY OF FIR IN CRIME NO.569/2024 OF OACHIRA POLICE
STATION DATED 13.6.2024 Annexure A2 THE COPY OF ORDER DATED
11.7.2024 IN CRL.M.C NO.1370/2024 ON THE FILE OF SESSIONS COURT,
KOLLAM Annexure A3 THE COPY OF THE ORDER IN CRL.M.C NO.1363/2024
DATED 22.07.2024 PASSED BY THE SESSIONS COURT, KOLLAM

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