

Indrajith vs State of Kerala

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./6051/2024

Appellant : Indrajith

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY,
THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946 CRIME
NO.742/2024 OF Punalur Police Station, Kollam -----
PETITIONER/ACCUSED :- INDRAJITH, AGED 28 YEARS S/O
SURESH BABU, NR. DEEPTHI VILASOM, GURU MANDIRAM,
MALIAKKAL, PLACHERRY P.O., VALAKKODU, KOLLAM, PIN - 691
331 BY ADVS. K.SUDHINKUMAR S.NITHIN (ANCHAL)
RESPONDENT/STATE & COMPLAINANT :- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682 031 2 SUB INSPECTOR OF POLICE PUNALUR
POLICE STATION, KOLLAM, PIN - 691 305 BY SMT.SEETHA S.,

SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -: 2 :-

ORDER

Dated this the 31st day of July, 2024 The application is filed under Section 483 of the

Bharatiya Nagarik Suraksha Sanhita, 2023, by the first accused in Crime No.742/2024 of the Punalur Police Station, Kollam, which is registered against the five accused persons, for allegedly committing the offences punishable under Sections 20(b)(ii)(B) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner was arrested and remanded to judicial custody on 22.05.2024.

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

22.05.2024, at around 09:45 hrs., the accused had hatched a conspiracy and they procured ganja from the State of Odisha. The accused were found in conscious possession of 2.490 kgs. of ganja which was stored at the residence of the second accused. The contraband was stored in small -: 3 :- packets for the purpose of sale. Thus, the accused have committed the above offences.

3. Heard; Sri.K.Sudhin Kumar, the learned counsel appearing for the petitioner and Smt.Seetha S., the learned Senior 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. There is no material to substantiate the petitioner's involvement in the case. In fact the contraband was seized from the residence of the second accused. The petitioner has been implicated in the crime due to the previous animosity of the Investigating Officer. Actually, the other accused have already been enlarged on bail by the Court

of Session as per Annexure II order. The petitioner has been denied bail only on the ground that he has one antecedence. The petitioner has been in judicial custody for the last 70 days, the investigation in the case is -: 4 :- practically complete and recovery has been effected. Therefore, the petitioner may be enlarged on bail.

5. The learned Public Prosecutor opposed the

application. She submitted that the petitioner is involved in Crime No.13/2020 of the Haryana Police Station for committing an offence of a similar nature. If the petitioner is enlarged on bail, there is every likelihood of him committing a similar offence. Hence, the application may be dismissed.

6. The prosecution allegation against the petitioner is that; he along with the other accused were found in conscious possession of 2.490 kgs. of ganja. Admittedly, the petitioner was arrested and remanded to judicial

custody on 22.05.2024. The sole reason for the learned Sessions Judge to dismiss the petitioner's application for bail is that he is involved in Crime No.13/2020 of the Haryana Police Station. Indisputably, the petitioner has been in judicial custody for the last 70 days, the -: 5 :- investigation in the case is complete, recovery has been effected and the contraband involved in the case is of an intermediate quantity. Therefore, the rigour under Section 37 of the Act may not be applicable to the facts of the case, even though Section 29 of the Act has been incorporated.

7. On an overall consideration of the facts, the rival

submissions made across the Bar, and the materials placed on record, particularly on considering the fact that the contraband involved in the case is of an intermediate quantity, the earlier crime alleged against the petitioner is of the year 2020, the investigation in the present case is complete and recovery has been effected, I am of the firm

view that the petitioner's further detention is not necessary. Hence, I am inclined to allow the application, but subject to stringent conditions. 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 -:- 6 :- 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. 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 them 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 -:- 7 :- 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 Jvt/31.7.2024 -: 8 :- APPENDIX OF BAIL APPL.6051/2024 PETITIONER ANNEXURES :- Annexure I TRUE COPY OF THE FIR IN CRIME NO. 742/2024 DATED 22.05.2024 REGISTERED BY THE 2ND RESPONDENT Annexure II TRUE COPY OF THE ORDER OF THE PRINCIPLE SESSIONS COURT, KOLLAM IN CRL. M.C. NO. 1168/2024 DATED 03.07.2024

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