

Sudheesh vs State of Kerala

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Court : Kerala

Decided On : Aug-08-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./6318/2024

Appellant : Sudheesh

Respondent : State of Kerala

Judgement :

BAIL APPL. NO. 6318 OF 2024 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS THURSDAY, THE 8TH DAY OF AUGUST 2024 / 17TH SRAVANA, 1946 BAIL APPL. NO. 6318 OF 2024 CRIME NO.97/2024 OF AGALI POLICE STATION, PALAKKAD AGAINST THE ORDER/JUDGMENT DATED IN BAIL APPL. NO.4400 OF 2024 OF HIGH COURT OF KERALA PETITIONER/ACCUSED: SUDHEESH AGED 25 YEARS S/O.JAGANNADAN, VYADYA COLONY, AGALI, ATTAPPADY, PALAKKAD DISTRICT, PIN - 678581 BY ADV BABU S. NAIR RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, KOCHI, PIN

- 682031 2 THE STATION HOUSE OFFICER AGALI POLICE STATION, PALAKKAD DISTRICT, PIN - SR.PUBLIC PROSECUTOR SRI. C.S HRITWIK THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08.08.2024, THE COURT ON THE SAME DAY PASSEDTHE FOLLOWING: BAIL APPL. NO. 6318 OF 2024 2

ORDER

Dated this the 8th day of August, 2024 The application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, by the first accused in Crime No.97/2024 of the Agali Police Station, Palakkad, which is registered against the accused, for allegedly committing the offences punishable under Section 20(b)(ii)(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985, Section 286 of the Indian Penal Code, Section 25(iB)(a) of the Arms Act and Section 5 r/w Section 9(B)(1)(b) of the

Explosives Act. The petitioner was arrested and remanded to judicial custody on 15.07.2024. 2.The crux of the prosecution case is that; on 19.05.2024, the accused was found in possession of 220 gms of ganja, Rs.8,450/-, a country made gun, a BAIL APPL. NO. 6318 OF 2024 3 barrel and wooden parts of a country made gun and 75 gms of explosives and bullets. Thus, the accused have committed the above offences.

3.Heard; Sri.Babu S. Nair, the learned counsel appearing for the petitioner and Sri.C.S. Hrithwik, the learned Senior Public Prosecutor 4.The learned counsel appearing for the petitioner submitted that the petitioner is totally innocent of the accusations levelled against him. He has been falsely implicated in the crime. There is no material to substantiate the petitioner's involvement in the case. The second accused has been enlarged on bail by this Court as per Annexure A order. The petitioner is at par with the second accused. Therefore, the petitioner is entitled to the benefit of a similar order. In any given case, the petitioner has been in judicial custody since 15.07.2024, the investigation in the case is complete and recovery has been effected. Moreover, the petitioner does not have BAIL APPL. NO. 6318 OF 2024 4 any criminal antecedents. Therefore, the petitioner may be released on bail. 5.The learned Public Prosecutor opposed the application. He

submitted that the investigation is in progress. He also stated that if the petitioner is released on bail, there is every likelihood of him committing similar offences. Hence, the application may be dismissed. Nonetheless, he did not dispute the fact that the petitioner does not have any criminal antecedents. 6. On an anxious consideration of the facts, the

rival submissions made across the Bar and the materials placed on record, particularly considering the fact that the petitioner has been in judicial custody since 15.07.2024, the investigation in the case is complete and recovery has been effected, and further that the second accused has been enlarged on bail as per Annexure A order, I am of the firm view that the petitioner is entitled to be released on bail. Hence, I

BAIL APPL. NO. 6318 OF 2024 I am inclined to allow the application. 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 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; BAIL APPL. NO. 6318 OF 2024 6

(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 BAIL APPL. NO. 6318 OF 2024 7

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 rmm 8/8/2024

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