

Shafi.K vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-27-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./272/2023

Appellant : Shafi.K

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
THURSDAY, THE 27TH DAY OF JULY 2023 / 5TH SRAVANA, 1945
BAIL APPL. NO. 272 OF 2023 PETITIONER/S: 1 SHAFI.K AGED 32
YEARS S/O SULAIMAN, AGED 32 YEARS CHEDIKUNDU HOUSE,
BEDADKA, KUNDAMKUZHI, KASARGODE,, PIN - 671541 2
KRISHNAN AGED 50 YEARS S/O NEELI.H, AGED 50 YEARS
CHEMBAD HOUSE, BEDADUKA KASARGODE,, PIN - 671541 BY
ADVS. M.P.PRIYESHKUMAR SHANAVAS NALAKATH
RANDUPURAYIL RESPONDENT/S: 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, PIN - 682031 2 STATION HOUSE OFFICER EDAKKAD

POLICE STATION KANNUR PIN- 670662, PIN - 3 FOREST RANGE OFFICER THALIPARAMBA OFFICE RANGE KANNUR DISTRICT, PIN - BY ADV PUBLIC PROSECUTOR OTHER PRESENT: SMT. MAYA M.N., PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

P.V.KUNHIKRISHNAN, J.

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Dated this the 27th day of July, 2023

ORDER

The petitioners are the accused in OR No.8 of 2022 of Thaliparamba Forest Range. The above case is registered against the petitioners alleging offences punishable under Sections 27(1)(d), 47A, 47B, 47C, 47D, 47E, 47F, 47G, 47H, 52 and 61A of the Kerala Forest Act, 1961.

2. The prosecution case is that on 21.10.2022 at about 5 pm

at Edakkad amsom, Thottada desom, after getting credible information, the police intercepted the car bearing Reg.No.KL-13/AG- 5038, which was driven by the 1st accused and seized 142Kg of sandal wood in the said car and arrested the 1 st and 2nd accused on the spot. Three identifiable persons ran away from the spot. The petitioners are arrayed as accused in this case.

3. Heard the counsel for the petitioners and the Public Prosecutor. -3-

4. The counsel for the petitioners submitted that the

petitioners are innocent and they are not involved in the case and they are falsely indicated in the case. The public prosecutor submitted that the investigation is still going on and the articles are already seized. The prosecutor submitted that the petitioners have to be identified by the witnesses. If that is the case, the petitioners

can be directed to appear before the investigating officer within a time frame and the investigating officer can complete the investigation. Thereafter the petitioners can be released on bail.

5. Moreover, it is a well accepted principle that, the bail is

the rule and the jail is the exception. The Hon'ble Supreme Court in Chidambaram P. v. Directorate of Enforcement (2019 (16) SCALE 870), after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that, the accused has the opportunity of securing fair trial.

-4-

6. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following directions:

1. Petitioners shall appear before the Investigating Officer within two weeks from today and shall undergo interrogation;

2. After interrogation, if the Investigating Officer proposes to

arrest the petitioners, they shall be released on bail on executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the officer concerned;

3. Petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioner/s shall co-operate with the investigation and shall not, directly or indirectly make any

inducement, threat or promise 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; -5-

4. Petitioners shall not leave India without permission of the jurisdictional Court;
5. Petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected;
6. If any of the above conditions are violated by the petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

sd/- P.V.KUNHIKRISHNAN JUDGE
das -6- APPENDIX OF BAIL APPL. 272/2023
PETITIONER ANNEXURES Annexure A A TRUE COPY OF THE FIR IN CRIME
NO.589/2022 OF EDAKKAD POLICE STATION, KANNUR Annexure B A
CERTIFIED COPY OF THE BAIL ORDER IN CRL.MC 1589/2022 OF SESSION
COURT, THALASSERY DATED 16.12.2022

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