

Krishna Prakash vs State of Kerala

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Court : Kerala

Decided On : Jan-31-2023

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/685/2023

Appellant : Krishna Prakash

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY, THE 31ST DAY OF JANUARY 2023 / 11TH MAGHA, 1944 CRL.M.P. NO.4247/2022 OF THE JFCM, CHAVAKKAD. CRIME NO.498/2022 OF VADANAPPALLY POLICE STATION, THRISSUR DISTRICT. PETITIONER/RESPONDENT/1ST ACCUSED: KRISHNA PRAKASH, AGED 24 YEARS, S/O. PRAKASAN, VIJAYAMMA TOWER HOUSE, KULATHUR P.O., KAZHAKKOOTTAM, THIRUVANANTHAPURAM-695 583. BY ADV SHABU SREEDHARAN RESPONDENT/PETITIONER/COMPLAINANT: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031. SRI. M.C.ASHI, PUBLIC

PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 31.01.2023, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING: -2-

ORDER

Dated this the 31st day of January, 2023 The respondent is the 1st accused in Crime No.498 of 2022 of Vadanappally Police Station. The crime is registered for the offence punishable under Sections 55(a), 55(i) and 58 of the Abkari Act. The prosecution allegation is that, while conducting checking operation on 24.07.2022 near the Chettuva bridge, the police party

searched a Mahindra Bolero Pickup Van bearing registration No.KL-22/L-5743 and seized 398 cardboard boxes containing 3582 litres of Indian Made Foreign Liquor. The vehicle was driven by the petitioner, who is arrayed as the 1st accused and had a passenger, who is arrayed as the 2nd accused. After arrest, the petitioner was produced and remanded to custody by the trial court

and was later granted bail by this Court as per order

dated 24.08.2022 in B.A. No.6248 of 2022. The 4 th condition in the bail order is that the petitioner shall not -3-

involve in any other offence while on bail. Later, the investigating officer filed a petition seeking cancellation of the bail pointing out that, in violation of the bail condition, the petitioner got involved and is arrayed as an accused in Crime No.129 of 2022 of Excise Range, Irinjalakkuda alleging commission of offences under Sections 67B and 58 of the Abkari Act. This time, the quantity of Indian Made Foreign Liquor recovered from the petitioner's vehicle is 1440 litres. The petitioner was arrested in the second crime on 30.10.2022 and was granted bail by this Court as per Annexure-3 order dated 08.12.2022.

2. The petition seeking cancellation of bail was

considered by the Judicial First Class Magistrate Court, Chavakkad and finding convinced that the petitioner had violated the bail condition, the bail granted to him

in Crime No.498 of 2022 was cancelled. Aggrieved, this Crl.M.C. is filed. -4-

3. Learned Counsel for the petitioner contended

that this Court having granted bail to the petitioner in the second crime, in spite being aware that the bail condition in the first crime (Crime No.498 of 2022) was violated, the learned Magistrate committed an illegality in having cancelled the bail. It is submitted that the petitioner has already undergone 70 days of custody in connection with the two crimes and a benevolent approach should therefore be taken in the matter.

4. Learned Public Prosecutor submits that, other

than the two crimes, the petitioner is involved in another crime of similar nature. Moreover, the quantity of liquor recovered being huge, no benevolence can be extended. It is submitted that in spite this Court having imposed a condition that the petitioner should not get involved in any crime, he violated the condition. Being so, the learned Magistrate was justified in cancelling the bail.

5. Although the learned Magistrate had reason to cancel the bail, the fact that the petitioner was in custody -5-

for 30 days in connection with Crime No.498 of 2022, for 40 days in connection with Crime No.60 of 2022 is a relevant consideration. Yet another relevant aspect is that this Court had deemed it appropriate to grant bail to the petitioner in the second crime, in spite of being aware that, by committing the crime, the petitioner had violated the conditions imposed in the first bail order. In such circumstances, it is doubtful whether the bail could have been cancelled based only on the violation.

In the result, the Crl.M.C. is allowed. While quashing Annexure-4, the following conditions are imposed, which the petitioner shall abide without fail;

- i) The petitioner shall appear before the Station House Officer, Kazhakkootam Police Station, within the limits of which he is residing, between 10.00 a.m. and 11.00 a.m. on every alternate day.
- ii) The petitioner shall not leave the limits of the Kazhakkootam Police Station

without prior intimation to the Station House Officer and shall provide the details of his travel plan to the Station House Officer in advance. -6- iii) The petitioner shall co-operate with the investigation of the crimes registered against him and shall appear before the investigating officers, as and when directed. Sd/- V.G. ARUN JUDGE

bpr -7- APPENDIX OF CRL.MC 685/2023 PETITIONER'S ANNEXURES
Annexure-1 THE TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN BA NO. 6248/2022 DATED 24.8.2022 Annexure-2 THE TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN CRL MA NO. 1/2022 IN BA NO. 6248/2022 DATED 16.12.2022 Annexure-3 THE TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN BA NO. 9372/2022 DATED 8.12.2022 Annexure4 THE CERTIFIED COPY OF THE ORDER OF THE JFCM COURT, CHAVAKKAD IN CRL MP NO.

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