

Sunimon vs State of Kerala

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Court : Kerala Orders

Decided On : Apr-11-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2712/2023

Appellant : Sunimon

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
TUESDAY, THE 11TH DAY OF APRIL 2023 / 21ST CHAITHRA, 1945
BAIL APPL. NO. 2712 OF 2023 AGAINST THE ORDER IN CRMC
577/2023 OF DISTRICT COURT & SESSIONS COURT, TRIVANDRUM
(CRIME NO.24 OF 2023 OF CHIRAYINKEEZH EXCISE RANGE
OFFICE, THIRUVANANTHAPURAM) PETITIONER/ACCUSED:
SUNIMON AGED 48 YEARS KUNNUMPURATHU VEEDU,
MELKADAKKAVOOR, SARKARA VILLAGE, CHIRAYINKEEZHU,
THIRUVANANTHAPURAM, PIN - 695306 BY ADVS. T.KABIL
CHANDRAN R.ANJALI D.DCRUZ ANISHA RESPONDENTS: 1 STATE
OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH

COURT OF KERALA, PIN - 682031 2 CIRCLE INSPECTOR OF EXCISE
EXCISE RANGE OFFICE, CHIRAYINKEEZHU, PIN - 695101 BY
SRI.P.G.MANU.SR.P.P THIS BAIL APPLICATION HAVING COME UP
FOR ADMISSION ON 11.04.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: ..2..

ORDER

Dated this the 11th day of April, 2023 This application is filed u/s 438 of the Code of Criminal Procedure seeking pre-arrest bail.

2. The applicant is the sole accused in Crime No.24/2023 of Chirayinkeezhu Excise Range Office, Thiruvananthapuram. The offences alleged are punishable under Sections 55(i) of the Abkari Act.

3. The prosecution case, in short, is that the applicant was found in possession of 4.5 litres of Indian Made Foreign Liquor in contravention of the Abkari Act and Rules and thereby committed the offence.

4. I have heard Sri.T.Kabil Chandran, the learned counsel for the applicant and Sri.P.G.Manu, the learned Senior Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicant submitted that

the applicant is innocent and has been falsely implicated in the present case. The counsel further submitted that no materials are on record to connect the applicant with the alleged crime; hence, he is entitled to get bail. The learned Public Prosecutor, ..3.. on the other hand, submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and if he is released on bail at this stage, it will affect the course of the investigation.

6. The law regarding the grant or refusal of pre-arrest bail is well settled. Pre-arrest bail cannot be granted as a

matter of course. The power u/s 438 of Cr.P.C could be exercised only when a special case is made out, that too, recording reasons thereof. Perusal of the case

diary reveals that the accusation made against the applicant is very serious in nature and it prima facie shows a premeditated criminal act on his part. The learned counsel for the applicant relying on Annexure A2 submitted that the applicant is undergoing treatment for stroke for the last six months and his hands are partially disabled and he is taking complete bed rest. But, in Annexure A2 there is nothing to indicate that the applicant is bedridden or even he is unable to move. The learned counsel further submitted relying on Annexure A3 that the daughter of the applicant is a mentally retarded person. The fact that the daughter of the applicant is a mentally retarded person is not

..4.. a ground for seeking anticipatory bail for the applicant. The investigation is in a preliminary stage. The custodial interrogation of the applicant is necessary for the

investigation. As rightly argued by the learned Public Prosecutor, the possibility of the applicant influencing the witnesses and interfering with the investigation cannot be ruled out if he is released on bail. Considering the gravity of the offence and stage of the investigation, it is not a fit case where extra ordinary jurisdiction vested with this Court u/s 438 of Cr.P.C. could be invoked. The bail application is, accordingly, dismissed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE APA ..5.. APPENDIX OF BAIL APPL. 2712/2023 PETITIONER'S ANNEXURES Annexure A1 A TRUE COPY OF THE CRIME AND OCCURRENCE REPORT IN CRIME NO. 24 OF 2023 OF CHIRAYINKEEZHU EXCISE RANGE OFFICE, THIRUVANANTHAPURAM Annexure A2 A TRUE COPY OF THE MEDICAL RECORDS OF THE PETITIONER Annexure A3 A TRUE COPY OF THE DISABILITY CERTIFICATE DATED 14.10.2010 ISSUED TO THE DAUGHTER OF THE PETITIONER Annexure A4 A TRUE COPY OF THE ORDER DATED 15.03.2023

IN CRL.M.C. NO.577 OF 2023 ON THE FILES OF THE COURT OF ADDITIONAL SESSIONS JUDGE-II, THIRUVANANTHAPURAM

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