

Joshy vs State of Kerala

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Court : Kerala

Decided On : Sep-30-2023

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : Bail Appl./8171/2023

Appellant : JOSHY

Respondent : State of Kerala

Judgement :

..1..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
SATURDAY, THE 30TH DAY OF SEPTEMBER 2023/8TH ASWINA,
1945 BAIL APPL. NO. 8171 OF 2023 CRIME NO. 97/2023 OF
CHALAKKUDY EXCISE RANGE OFFICE, THRISSUR
PETITIONER/ACCUSED:

JOSHY, AGED 43, S/O PORINJU FRANCIS, PANADAN HOUSE,
KORMALA DESOM, KUTTICHIRA VILLAGE, CHALAKUDY TALUK, PIN
- 680724 BY ADVS.M/S. RAPHAEL THEKKAN, T.SAJI RAPHEL &

CHRISTINE MATHEW RESPONDENT/STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031. SRI.P.G.MANU(MAMALASSERY), SR.P.P. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ..2..

MOHAMMED NIAS C. P. , J.

===== B. A. No. 8171 of 2023
===== Dated this the 30th day of
September, 2023

ORDER

This application is filed under Section 439 of the Code of Criminal Procedure seeking regular bail. The petitioner is the sole accused in Crime No. 97/2023 of Chalakudy Excise Range Office, Thrissur, for having allegedly committed offences punishable under Sections 8(1)(2) & 55(g) of the Abkari Act.

2. The prosecution case is that, on 31.8.2023 at 10.15 a.m., the

excise party had arrested the petitioner, who was found in possession of 10 litres of arrack and 250 litres of wash and utensils from the house numbered 6/281 of Kodassery Grama Panchayath, in violation of the provisions of the Abkari Act, and thereby committed the offences mentioned above.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and has been falsely implicated with ..3.. ulterior motives. At any rate, he points out that the petitioner is in custody from 31.8.2023, and the continued custody of the petitioner is unnecessary.

4. The learned Public Prosecutor opposed the petition.

5. After having considered the submissions of the learned counsel

for the petitioner and learned Public Prosecutor and considering the nature of the allegations against the petitioner and the fact that he has been in custody since 31.8.2023 and also, since there is no apprehension raised by the prosecution that if released on bail, the petitioner is likely to abscond, I hold that bail can be granted to the petitioner, taking into account the quantity involved. It is also to be noted that no antecedents are reported against the petitioner. Accordingly, this application is allowed, and the petitioner is granted bail subject to the following conditions:-

1. The petitioner shall be released on bail on executing a bond for Rs.25,000/- (Rupees Twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court; ..4..
2. The petitioner shall report before the Investigating Officer as and when directed;
3. The petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witnesses;
4. The petitioner shall not be involved in any other crime while

on bail. If any of the conditions are violated, the jurisdictional court concerned will be empowered to take steps for cancellation of bail as per law. Sd/- MOHAMMED NIAS C. P. , JUDGE MMG ..5.. APPENDIX OF BAIL APPL.NO.8171/2023 PETITIONER'S ANNEXURES: ANNEXURE 1 TRUE COPY OF THE BAIL ORDER DATED 08.09.2023 IN CRL.M.P.NO.4740/2023 OF HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHALAKUDY ANNEXURE 2 TRUE COPY OF THE REMAND REPORT DATED 31.08.2023

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