

Sreekanth vs Excise Inspector,

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Court : Kerala Orders

Decided On : Jan-21-2022

Judge : Honourable Mrs. Justice C.S. Sudha

Appeal No. : Bail Appl./9/2022

Appellant : Sreekanth

Respondent : Excise Inspector,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE C.S. SUDHA FRIDAY,
THE 21ST DAY OF JANUARY 2022 / 1ST MAGHA, 1943 BAIL APPL.
NO. 9 OF 2022 Crime No.13/2021 of Kuttampuzha Excise Range Office,
Ernakulam District PETITIONER/S: SREEKANTH AGED 27 YEARS
S/o.SURESH, PULLIPARAMBIL HOUSE,KOOVAPPARA KARA,
KUTTAMPUZHA VILLAGE, KOTHAMANGALAM TALUK, ERNAKULAM
DISTRICT BY ADVS. R.BINDU (SASTHAMANGALAM) G.RAJAGOPAL
(KUMMANAM) RESPONDENT/S: 1 THE EXCISE INSPECTOR,
EXCISE RANGE OFFICE, KUTTAMPUZHA, ERNAKULAM DISTRICT,
PIN-686 681. 2 STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682

031. PP SMT.SEENA C. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

C.S.SUDHA, J.

Dated this the 21th day of January, 2022

ORDER

This is an application under Section 438 Cr.P.C. for pre-arrest bail filed by the petitioner/accused in Crime No.13/2021 of Kuttampuzha Excise Range Office, Ernakulam District alleging commission of the offence punishable under Section 8(2) of the Kerala Abkari Act, 1077 (the Act).

2. The prosecution case is that on 7.5.2021 at 1.30 p.m. the

Excise Officials seized 500 ml of arrack from the possession of the accused. Hence, the petitioner/accused is alleged to have committed the offence punishable under the above mentioned Section.

3. The application is opposed by the learned Public Prosecutor on the ground that the provisions of Section 41A of the Act are -3-

attracted. It is also submitted that in the course of investigation it has been revealed that the petitioner/accused was in possession of 10 litres of arrack, which had been entrusted to him by one Bony, S/o

Mathew, Kanjirathinkal House, Kallelimedu to be sold. The investigation also revealed that the petitioner/accused had sold arrack at the rate of Rs.1400/- per litre and 500 ml that was seized by the Excise Officials on the relevant day was the arrack that remained after the petitioner/accused had conducted sale of the same.

4. It is submitted by the learned counsel for the

petitioner/accused that since recovery has been completely effected there is absolutely no need for arrest or detention of the petitioner/accused. It is also

pointed out that the quantity recovered is only 500 ml and that in such circumstances a lenient view may be taken and the petitioner/accused be enlarged on bail.

5. Heard both sides. Perused the records.

6. The power of the court to grant bail is circumscribed by the provisions contained under Section 41A of the Act. As of now -4-

there are no materials on record to show that there are any reasonable grounds for believing that the accused is not guilty of the offence alleged or that he is unlikely to commit any offence while on bail. The submission that only a very small quantity of arrack had been seized from the petitioner/accused and therefore a lenient view may be taken also does not seem to be correct in the light of the submission made by the learned Public Prosecutor and the report of the Investigating Officer that the petitioner/accused was in possession of 10 litres and that the quantity of the arrack that was seized on the relevant day is what remained after the sale.

In these circumstances, this Court is not inclined to grant pre- arrest bail to the petitioner/accused. Hence the request for bail is rejected and the bail application is dismissed. sd/- C.S.SUDHA, JUDGE STK

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