

Uthaman vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1442037

Court : Kerala

Decided On : Jan-25-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./282/2022

Appellant : Uthaman

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
TUESDAY, THE 25TH DAY OF JANUARY 2022 / 5TH MAGHA, 1943
CRIME NO.6/2021 OF KUTTAMPUZHA EXCISE RANGE, ERNAKULAM
DISTRICT PETITIONER/ACCUSED: UTHAMAN AGED 49 YEARS,
S/O.GOVINDAN, VALAKKATTIL HOUSE, VELLARAKUTH KARA,
KUTTAMPUZHA, POOYAMKUTTY P.O., KOTHAMANGALAM,
ERNAKULAM DISTRICT, PIN - 686 681. BY ADVS. S.UNNIKRISHNAN
(NELLAD) K.R.PRATHISH RESPONDENT: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682 031. SRI. M.C. ASHI (PP) THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 25.01.2022,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for anticipatory bail.

2. The petitioner is the accused in Crime No.6 of

2021 of Kuttampuzha Excise Range, Ernakulam District, alleging commission of offence under Section 55(g) of the Abkari Act. The allegation against the petitioner is that on 05.03.2021, when the Excise party searched the house of the petitioner, on getting specific information that the petitioner was engaged in the manufacture and sale of illicit arrack, the Excise party recovered about 50 liters of wash kept in the bedroom of the petitioners house.

3. The learned counsel for the petitioner submits that

the petitioner is absolutely innocent in the matter. It is submitted that the petitioner belongs to one of the Scheduled Tribes and the recovery is from a tribal colony. It is submitted that the petitioner was not present when the alleged recovery was effected. It is submitted that the recovery was in the month of March 2021 and till date, the custody of the petitioner was not required by the Excise

Department. It is submitted that taking into account the nature of the allegations, the custodial interrogation of the petitioner is not necessary. Lastly, it is submitted that the petitioner is a heart patient and reference is made in this regard to Annexure - A1.

4. The learned Public Prosecutor opposes the grant of

bail. He submits that the recovery in question was effected from the house of the petitioner and the petitioner cannot absolve himself of liability by stating that the contraband was not recovered from his possession. It is submitted that the contraband was hidden in the bedroom of the petitioner. It is submitted that the petitioner is not entitled to anticipatory bail.

5. Having regard to the facts and circumstances of

the case and considering the fact that the petitioner is a heart patient and also considering the fact that the incident relates to the month of March 2021, I am of the opinion that the custodial interrogation of the petitioner may not be necessary in the facts and circumstances of the case.

6. In the result, this application is allowed and it is

directed that the petitioner shall be released on bail, in the event of his arrest in connection with Crime No.6 of 2021 of Kuttampuzha Excise Range, Ernakulam District, subject to the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.15,000/- (Rupees fifteen thousand only) with two solvent sureties for the like sum to the satisfaction of the Jurisdictional Court;

(ii) The petitioner shall report before the

investigating officer in Crime No.6 of 2021 of Kuttampuzha Excise Range, Ernakulam District, at 09.00AM on 31.01.2022 and thereafter, whenever called upon to do so;

(iii) The petitioner shall also co-operate with the investigation in every manner possible.

(iv) The petitioner shall not attempt to interfere with the investigation or to influence or intimidate any witness in Crime No.6 of 2021 of Kuttampuzha Excise Range, Ernakulam District;

(v) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the investigating officer in Crime No.6 of 2021 of Kuttampuzha Excise Range, Ernakulam District, may file an application before the Jurisdictional Court, for cancellation of bail. Sd/- GOPINATH P. JUDGE DK