

(2022) 02 KL CK 0172

In the High Court Of Kerala

Case No : Bail Application Nos. 9659, 9782 Of 2021, 47 Of 2022

Abdul Salam. O

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 18-02-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 409
Essential Commodities Act, 1955 — Section 3, 7
Kerala Rationing Order, 1966 — Section 5(a)

Citation : (2022) 02 KL CK 0172

Hon'ble Judges : C.S.Sudha, J

Bench : Single Bench

Advocate : Raffeeekh Kottackal, C.Seena

Final Decision : Allowed

Judgement

C.S. Sudha, J

1. These are applications under Section 438 of Cr.P.C. filed by the petitioners/accused 3 to 5 seeking pre-arrest bail in Crime No.435/2020 of

Vellamunda Police Station, Wayanad District, alleging commission of the offences punishable under Sections 409 read with Section 34 IPC and

Sections 3 and 7 of the Essential Commodities Act, 1955 and Section 5(a) of the Kerala Rationing Order, 1966.

2. The prosecution case is as follows -

A1 and A2, who are the Manager and Assistant Salesman respectively of NFSA godown, Mananchira, Mananthavady, diverted 80 quintals of rice,

which was allotted to A3 and got it delivered at the residence of A3 with the intention of selling it in the open market. The ration article was

transported in a lorry bearing registration No.KL-18/A-9446, which was driven by A5. The fifth accused had transported these articles in the said

lorry with the full knowledge that it was actually meant for being delivered to the ration shop of A3. The ration articles were illegally stored in the

house of A3. The fourth accused who is the Salesman of ARD 40 had assisted and helped the other accused in the commission of the crime. Hence

the accused are alleged to have committed the offences punishable under the above mentioned Sections.

3. The applications are opposed by the learned Public Prosecutor.

4. The learned counsel for petitioner in B.A.No.9782/2021, that is, A3, submitted that he is innocent of the offences alleged against him and that he

had stored the articles at his residence only on the instructions of A1 and A2, the Manager and Assistant Salesman respectively of NFSA godown.

The learned counsel for the petitioner in B.A.No.9659/2021, that is, A4, submitted that he is innocent of the offences alleged against him. It is

submitted that as per the instructions of A1 he had only given the contact details of A3 and that he has no role in the crime. It is submitted by the

learned counsel for the petitioner in B.A.No.47/2022, that is, A5, that he was only the driver of the vehicle in which the ration articles were

transported and that he had only transported the same as per the instructions given by A1 and A2 and that he has no role in the crime .

5. Heard both sides and perused the records.

6. During the course of arguments, it is brought to my notice that A1 and A2 have been granted bail by this Court as per order dated 08/02/2022 in

B.A.No.9839/2021. The report of the Investigating Officer shows that recovery of the entire ration articles has been effected. Hence, detention and

custodial interrogation of the petitioners/accused do not appear to be necessary in this case. Moreover, A1 and A2 have also been granted bail. In

such circumstances, I am of the opinion that pre-arrest bail can be granted to the petitioners.

In the result, the applications are allowed subject to the following conditions:

(i) The petitioners in the event of their arrest in the aforesaid crime shall be released on bail on their executing a bond for a sum of Rs. 50,000/- each (Rupees fifty

thousand only) with two solvent sureties for the like sum each to the satisfaction

of the Investigating Officer.

(ii) The petitioners shall appear before the Investigating Officer on all Tuesdays and Saturdays between 10 a.m. and 1 p.m. till the final report is filed. They shall also

appear before the Investigating Officer as and when required by the latter.

(iii) The petitioners shall co-operate with the investigation and they shall not intimidate or influence the witnesses in any manner or interfere with the course of investigation.

(iv) The petitioners shall not commit any offence(s) while on bail.