
(2024) 04 KL CK 0095

In the High Court Of Kerala

Case No : Bail Application No. 2857 Of 2024

Faizal Jabbar

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 09-04-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 279
Motor Vehicles Act, 1988 — Section 179
Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 22(b)

Citation : (2024) 04 KL CK 0095

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

Bench : Single Bench

Advocate : V.S.Mansoor, Akhil Binoy, Neema T.V

Final Decision : Allowed

Judgement

C.S.Dias, J

1. The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the sole accused in Crime No.440/2024 of the Thodupuzha Police Station, Idukki, registered against him, for allegedly committing the offences punishable under Sec. 279 of the Indian Penal Code, Sec.132(1) read with Sec.179 of the Motor Vehicles Act and Sec. 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner was arrested on 13.3.2024.

2. The essence of the prosecution case is that: on 12.3.2024 at around 19.00 hours, the accused was found in possession and transporting 3.190 grams of MDMA in a car bearing registration No.KL 35/E 7272. When the Sub Inspector of Police attempted to intercept the vehicle, the accused drove away the vehicle in a rash and negligent manner so as to endanger human life. The petitioner was apprehended and the contraband was seized from his possession. Thus, the accused has committed the above offences.

3. Heard; Sri.V.S Mansoor, the learned counsel appearing for the petitioner and Smt.Neema T.V., the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations leveled against him. He has been falsely implicated in the crime. The petitioner has been in judicial custody since 13.3.2024. The petitioner does not have any criminal antecedents and the contraband allegedly seized from the petitioner is of an intermediate quantity. Hence, the application may be allowed.

5. The learned Public Prosecutor seriously opposed the application. She submitted that the petitioner is involved in another crime for allegedly committing the offence under the Indian Penal Code. Nonetheless, she did not dispute to the fact that the petitioner has been in judicial custody since 13.3.2024, the contraband involved in the case is of an intermediate quantity, the investigation is practically complete and recovery has been effected.

6. On an anxious consideration of the facts, the materials placed on record and the rival submissions made across the Bar, especially considering the fact that the petitioner has been in judicial custody since 13.3.2024, that the contraband involved in the case is of an intermediate quantity, that the petitioner does not have any criminal antecedents with regard to committing the offence under the NDPS Act, that the investigation in the case is practically complete and that the recovery has been effected, I am of the definite view that the petitioner's further detention is unnecessary. Hence, I am inclined to allow the bail application.

In the result, the application is allowed, by directing the petitioner to be released on bail on him executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following conditions:

(i) The petitioner shall appear before the Investigating Officer on every Saturday between 9 a.m. and 11 a.m for a period of three months or till the final report is filed, whichever is earlier. He shall also appear before the Investigating Officer as and when required;

(ii) The petitioner shall not directly or indirectly make any inducement, threat or procure to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any Police Officer or tamper with the evidence in any manner, whatsoever;

(iii) The petitioner shall not commit any offence while he is on bail;

(iv) The petitioner shall surrender his passport, if any, before the court below at the time of execution of the bond. If he has no passport, he shall file an affidavit to the effect before the court below on the date of execution of the bond;

(v) In case of violation of any of the conditions mentioned above, the jurisdictional court shall be empowered to consider the application for

cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

(vi) Applications for deletion/modification of the bail conditions shall be filed and entertained before the court below.

(vii) Needless to mention, it would be well within the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* and another [2020 (1) KHC 663].