

(2023) 02 KL CK 0037
In the High Court Of Kerala
Case No : Bail Application No. 107 Of 2023

Harry Sabu

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 03-02-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438
Kerala Abkari Act, 1967 — Section 8(1), 8(2), 55(a), 56(b), 58

Citation : (2023) 02 KL CK 0037

Hon'ble Judges : Dr. Kauser Edappagath, J

Bench : Single Bench

Advocate : N.U.Harikrishna, Mithun Baby John, T.V.Neema

Final Decision : Allowed

Judgement

Dr. Kauser Edappagath, J

1. This is an application filed u/s 439 of Code of Criminal Procedure seeking regular bail.
2. The petitioner is the accused No.1 in Crime No.121/2022 of Vadanappilly Excise Range, Thrissur District. The offences alleged are punishable under Sections 58, 56(b), 55(a) and 8(2) of Kerala Abkari Act.
3. The prosecution case, in short, is that on 18/12/2022 at 3 PM, the petitioner who was the Manager of the bar hotel, namely, Central Residency at Thalikkulam, stocked 7.300 litres of illicit liquor at the soda storeroom of the hotel. It is further alleged that thereafter, as per the disclosure statement given by the petitioner, 213 litres of illicit liquor, 15 litres of arrack and 5 litres of caramel were seized from the pickup van parked at the courtyard of the house of the accused No.2 who is the licensee of the hotel.
4. Heard both sides and perused the case diary.
5. The learned counsel for the petitioner submitted that the petitioner is

absolutely innocent and he has been falsely implicated in the present case. He further submitted that there are no materials to connect the petitioner with the alleged crime and hence he is entitled to get bail. The learned Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioner and if the petitioner is released on bail at this stage, it would affect the course of investigation.

6. Perusal of the case diary would reveal that prima facie there are materials on record to connect the petitioner with the crime. However, the petitioner was remanded to judicial custody on 18/12/2022. In view of the nature of the crime and the stage of investigation, I do not find any reason to hold that the continued detention of the petitioner is required for any purpose. The investigation seems to have reached a fair stage. The petitioner is only the Manager of the hotel from where the illicit liquor were allegedly seized. For all these reasons, the petitioner is entitled to be released on bail on conditions.

In the result, the application is allowed on the following conditions:-

- (i) The petitioner shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.
- (ii) The petitioner shall fully co-operate with the investigation.
- (iii) The petitioner shall appear before the investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. The petitioner shall also appear before the investigating officer as and when required by him.
- (iv) The petitioner shall not commit any offence of like nature while on bail.
- (v) The petitioner shall not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.
- (vi) The petitioner shall not leave the State of Kerala without the permission of the trial Court.