
(2001) 02 KL CK 0020
In the High Court Of Kerala
Case No : Criminal M.C. No. 698 of 2001

Manichan

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 307, 34

Citation : (2001) 1 KLJ 380

Hon'ble Judges : N. Krishnan Nair, J

Bench : Single Bench

Advocate : M.N. Sukumaran Nayar and S. Vijayakumar, for the Appellant; K. Gopalakrishna Kurup, State Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

N. Krishnan Nair

1. This application is filed by Chandran @ Manichan, one of the accused in Crime No. 268/2000 of Parippally Police Station. He is also implicated as accused in four other crimes. The investigation in all the crime cases have been completed and final report has been laid before the lower court against the petitioner and others. The prosecution allegation is that all the accused persons entered into a criminal conspiracy and pursuant to the conspiracy, they manufactured illicit arrack mixed with methyl alcohol for being sold to the public for consumption. As a result of the consumption of poisonous mixture sold by the accused persons, several persons died and several others sustained grievous injuries. All the accused are therefore charged with the offences punishable under Sections 302 and 307 read with Section 34 I.P.C. and Section 57-A of the Abkari Act. The application for bail moved by the petitioner before the Sessions Judge, Kollam was dismissed. The learned counsel for the petitioner submitted that the investigation into the case against the petitioner has been completed and no useful purpose would be served by the detention of the petitioner in custody. According to him, there is no reliable material to show that either ethyl alcohol or

methyl alcohol was recovered from the possession of the petitioner or from the property belonging to the petitioner. He further contended that no prejudice would be caused to the prosecution if the petitioner is released on bail at this stage. On the other hand the learned Public Prosecutor submitted that the offences alleged to have been committed by the petitioner under the Abkari Act fall within the sweep of Section 41-A of the Abkari Act and therefore the petitioner is not entitled to be released on bail.

2. The question for consideration is whether the petitioner is entitled to be released on bail at this stage. The petitioner and others are alleged to have committed the offences punishable under Sections 302 and 307 read with Section 34 I.P.C. and Section 57 (A) of the Abkari Act. I have anxiously gone through the case diary produced by the Public Prosecutor for my perusal. On going through the case diary I find no merit in the contention of the learned counsel for the petitioner that the allegations against the petitioner are groundless and are made with the oblique motive. The investigating agency has collected materials to show that the large quantity of ethyl alcohol and methyl alcohol were recovered from the go down premises of the petitioner. The investigating agency has seized 11 vehicles used for transporting spurious liquor and some of the vehicles were not having even registration numbers. On a consideration of the materials collected by the investigating agency, I am unable to say that the petitioner is not guilty of the offences alleged to have been committed by him and he is not likely to commit any offence while on bail. Section 41-A of the Abkari Act limits the scope of applicability of the provisions of Code of Criminal Procedure regarding grant of bail. In other words the jurisdiction of the court to grant bail is circumscribed by the provisions of Section 41-A of the Act. No accused can be released on bail when the application is opposed by the Public Prosecutor unless the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offences and that he is not likely to commit any offence while on bail. As already noticed, at this stage, it cannot be said that there are reasonable grounds for believing that the petitioner is not guilty of the offences alleged to have been committed by him and that he is not likely to commit any offence while on bail. A person who has committed an offence falling within the sweep of Section 41-A is not entitled to be released on bail even if the investigation has been completed and a final report has been laid before the court. Admittedly in this spurious liquor tragedy 40 persons died and more than 250 persons sustained serious injuries. According to the investigating agency, the petitioner herein is the principal offender. The nature and gravity of the circumstances in which the offences are committed, the likelihood of the accused fleeing from justice, possibility of accused tampering with the witnesses and the larger interest of the public are some of the considerations which must weigh with the court while considering the application for grant of bail. On a consideration of the facts and circumstances of this case I think I shall not be justified in releasing the petitioner on bail at this stage.

In the result the petition is dismissed.