

(2025) 01 KL CK 1751
In the High Court Of Kerala
Case No : Bail Application No. 106 Of 2025

Manoj @ Kannan

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 13-01-2025

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2025) 01 KL CK 1751

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : Babu S. Nair, G.Sudheer

Final Decision : Single Bench

Judgement

P.V.Kunhikrishnan, J.

1. This Bail Application is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita.
2. Petitioner is the accused in Crime No.158 of 2024 of Mannarkkad Excise Range, Palakkad. The above case is registered against the petitioner alleging offences punishable under Sections 55(i) and 67 B of the Kerala Abkari Act.
3. The prosecution case is that accused was found in possession of 4 liters of Indian made Foreign Liquor.
4. Heard counsel for the petitioner and the Public Prosecutor.
5. Counsel appearing for the petitioner submitted that the petitioner is in custody from 28.12.2024. The counsel submitted that the petitioner is ready to abide any conditions, if this Court grants him bail.
6. Public Prosecutor opposed the bail application. But, the Public Prosecutor submitted that as per the instructions received by him no criminal antecedents are alleged against the petitioner.

7. This Court considered the contention of the petitioner and the Public Prosecutor. Admittedly the contraband seized from the petitioner is Indian made Foreign Liquor, which is available in market. Whether under Section 55(i) of the Kerala Abkari Act is attracted in the facts and circumstances of the case, is a matter to be investigated. No criminal antecedents are alleged against the petitioner. The petitioner is in custody from 28.12.2024. Considering the facts and circumstances of the case, I think bail can be granted to the petitioner.

8. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in *Chidambaram. P v Directorate of Enforcement* [2019 (16) SCALE 870], after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

9. Moreover, in *Jalaluddin Khan v. Union of India* [2024 KHC 6431], the Hon'ble Supreme Court observed that:

"21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution." (underline supplied)

10. In *Manish Sisodia v. Directorate of Enforcement* [2024 KHC 6426], also the Hon'ble Supreme Court observed that:

"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well - settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".

Considering the dictum laid down in the above decision and considering the facts

and circumstances of this case, this Bail Application is allowed with the following directions:

1. Petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.
2. The petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise 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.
3. Petitioner shall not leave India without permission of the jurisdictional Court.
4. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
5. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above conditions.