

(2024) 02 KL CK 0253
In the High Court Of Kerala
Case No : Bail Application No. 1438 Of 2024

Milton Das

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 28-02-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)(B)

Citation : (2024) 02 KL CK 0253

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

Bench : Single Bench

Advocate : Arun Chand, Vinayak G Menon, Bharat Vijay P., Thareeq Anver K., K.Salma Jennath, Minu Vittorria Paulson, C S Hrithwik

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.55/2023 of the Thiruvananthapuram Excise Range Office, Thiruvananthapuram, registered against him for allegedly committing the offence punishable under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'the Act'). The petitioner was arrested on 27.10.2023.

2. The prosecution case is that: on 27.10.2023, at about 11.15 a.m, the accused was found in possession of 1.300 kg of Ganja, for the purpose of sale near Palappooru junction, Kalliyoor Village, in contravention of the provisions of the NDPS Act. Thus, the accused have committed the above offences.

3. Heard; Sri. Arun Chand, the learned counsel appearing for the petitioner and Sri. C.S. Hrithwik. the learned Public Prosecutor appearing for the respondents.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations levelled against him. He has been falsely implicated

in the crime. The petitioner has been languishing in custody since 27.10.2023. The investigation in the case is complete, the recovery has been effected and the final report has been laid. The petitioner has no criminal antecedents. Hence, the petitioner may be enlarged on bail.

5. The learned Public Prosecutor opposed the application. He contended that the petitioner has no roots in the State of Kerala. If the petitioner is enlarged on bail, there is every likelihood of him fleeing from justice. Hence, the application may be dismissed. Nonetheless, he conceded to the fact that the petitioner has no criminal antecedents, the investigation in the case is complete, and the final report has been laid.

6. On a consideration of the facts, the rival submissions made across the Bar, the materials placed on record, particularly taking note of the fact that the contraband that was allegedly seized from the petitioner is of an intermediate quantity, that the petitioner has no criminal antecedents, that the investigation in the case is practically complete, and that the final report has been laid, I am of the definite view that the petitioner's further detention is not necessary. Hence, I am inclined to allow the bail application, but subject to the stringent condition, especially since the petitioner has no roots in the State of Kerala, but by following the law laid by the Honourable Supreme Court in *Hussainara Khatoon (I) v. Home Secy., State of Bihar* [(1980) 1 SCC 81].

In the result, the application is allowed, by directing the petitioner to be released on bail on him 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 court having jurisdiction, which shall be subject to the following conditions :

(i) The petitioner shall appear before the Investigating Officer on every Tuesday and Saturday between 9 a.m. and 11 a.m till the conclusion of the proceedings in the above crime. 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 her 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) The petitioner shall furnish his present address and his mobile phone number to the court below and the Investigating Officer;

(vi) The petitioner shall not leave the territorial jurisdiction of the Court of Session, Thiruvananthapuram, without the previous permission of the court

below.

(vii) 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.

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

(ix) 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 of Delhi and another* [2020 (1) KHC 663].