

(2024) 02 KL CK 0218
In the High Court Of Kerala
Case No : Bail Application No. 1120 Of 2024

Ramani	Vs	APPELLANT
State Of Kerala		RESPONDENT

Date of Decision : 26-02-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Kerala Abkari Act (1 of 1077) — Section 13, 55(i), 63

Citation : (2024) 02 KL CK 0218

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

Bench : Single Bench

Advocate : R.Reji, M.V.Thamban, Thara Thamban, B.Bipin, Arun Bose, Jeena A.V., Thomas Thomas, 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.137/2023 of the Nooranadu Excise Range, Alappuzha, registered against him, for allegedly committing the offences punishable under Sections 55(i), 13 and 63 of the Kerala Abkari Act (1 of 1077). The petitioner had surrendered on 05.02.2024.
2. The crux of the prosecution case is that; on 18.12.2023, at around 3.30 hours, the accused was found in possession of 5 litres of Indian Made Foreign Liquor (IMFL), which was meant for sale. Thus, the accused has committed the above offences.
3. Heard Sri. R.Reji, the learned counsel appearing for the petitioner and Sri.C.S.Hrithwik, the learned Senior 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. She has been falsely implicated

in the crime. The petitioner has been in judicial custody since 05.02.2024. The investigation in the case is complete and recovery has been effected. Therefore, the petitioner's further detention is unnecessary. Hence, the petitioner may be released on bail.

5. The learned Public Prosecutor opposed the application. He contented that the investigation in the case is not complete. He further submitted that the petitioner is involved in three other cases of similar nature. If the petitioner is released on bail there is every likelihood of him committing a similar offence. Hence, the application may be dismissed.

6. After bestowing my anxious consideration to the facts, the materials placed on record, particularly taking note of the fact that the petitioner has been in judicial custody since 05.02.2024, that the investigation in the case is practically complete and the recovery has been effected and notwithstanding the rigour under Section 41 A of the Act, I am of the definite view that the petitioner's continued detention is not necessary. Hence, the petitioner is entitled to be released on bail.

In the result, the application is allowed, by directing the petitioner to be released on bail on her 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 Saturday between 9 a.m. and 11 a.m for a period of two months or till the final report is laid, whichever is earlier. She 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 she 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 she has no passport, she 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 Anr.* [2020 (1) KHC 663].