

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

THURSDAY, THE 15TH DAY OF FEBRUARY 2024 / 26TH MAGHA, 1945

BAIL APPL. NO. 940 OF 2024

CRIME NO.51/2023 OF MALAPPURAM E.E, MALAPPURAM

AGAINST THE ORDER IN CRMP 82/2024 OF SPECIAL COURT (ATROCITIES
AGAINST SC/ST), MANJERI

PETITIONER:

SOPPAN DAS
AGED 23 YEARS
S/O. SATHYARANJAN DAS,
24 PARGANAS SOUTH, KAKDWIP TALUK,
GANGADHAPUR VILLAGE,
GANGADHAR GANJ POST OFFICE,
WEST BENGAL,
PIN - 743347

BY ADV E.C.AHAMED FAZIL

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 THE INSPECTOR OF POLICE, EE AND ANSS,
MALAPPURAM
EXCISE ENFORCMENT AND ANTI NARCOTIC SPECIAL SQUAD,
MALAPPURAM, MALAPPURAM DISTRICT,
PIN - 676505
- 3 THE INSPECTOR OF POLICE, EE AND ANSS, MALAPPURAM
EXCISE ENFORCMENT AND ANTI NARCOTIC SPECIAL SQUAD,
MALAPPURAM, MALAPPURAM DISTRICT, PIN - 676505

OTHER PRESENT:

SR PP SRI C S HRITHWIK

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
15.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Dated this the 15th day of February, 2024

ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the sole accused in Crime No.51/2023 of the Excise Enforcement & Anti Narcotic Special Squad, Malappuram, registered against him, for allegedly committing the offences under Section 22(b)(ii) B of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*in short, 'NDPS Act'*). The petitioner was arrested on 23.11.2023.

2. The essence of the prosecution case is that; on 23.11.2023, at around 3.00 p.m., the accused was found in possession of 2.06 Kgs. of ganja in a quarters building. The accused was arrested with the contraband from the spot. Thus, the accused has committed the above offence.

3. Heard Sri. E.C.Ahamed Fazil, learned counsel appearing for the petitioner and Sri. C. S. Hrithwik, the

learned Senior Public Prosecutor appearing for the respondent.

4. The learned counsel appearing for the petitioner submitted that the petitioner is totally innocent of the accusation levelled against him. He has been falsely implicated in the crime. The petitioner has no criminal antecedents. The petitioner has been in judicial custody since 23.11.2023. Even assuming that the contraband was allegedly seized from the petitioner, the same is of an intermediate quantity. The investigation in the crime is practically complete and recovery has been effected. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the application. He contended that the investigation is not yet complete. Nonetheless, he conceded to the fact that the the petitioner has no criminal antecedents, that he has been in judicial custody since 23.11.2023

and the recovery has been effected.

6. After bestowing my anxious consideration to the facts, the materials placed on record, the rival submissions made across the Bar, especially 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 petitioner has been in judicial custody since 23.11.2023, that the investigation in the case is complete and the recovery has been effected, I am of the view that the petitioner's further detention is unnecessary. Hence, I hold that 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 him executing a bond for Rs.1,00,000/- (Rupees one lakh 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 filed, whichever is earlier. 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 him 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) 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 another*** [2020 (1) KHC 663].

Sd/-

C.S.DIAS,JUDGE

DST/15.02.24

//True copy//

P.A. To Judge