

Bail Appl.No.147 of 2020

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 28TH DAY OF APRIL, 2020 /8TH VAISAKHA, 1942

Bail Appl.No.147 of 2020

(Crime No. 369/2020 of Kareelakulangara Police Station)

Petitioners/1st & 2nd Accused:

- 1.Rajeev, S/o Pushkaran, aged 32, Nediyaath, Vettuveni, Haripad, Back of K.S.R.T.C Bus stand, Haripad, Mannarasala, Alappuzha.
- 2.Dinesh, S/o Diwakaran, aged 30, Sasikala Bhavanam, Muthukulam North, Cheppad.

Respondent/Complainant:

The State of Kerala represented by the public prosecutor, High Court of Kerala-31.

By Public Prosecutor SRI.BINEESH E.C.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This is an application for pre-arrest bail filed under Section 438 of the Code of Criminal Procedure.

2. The petitioners are the accused in Crime No. 369/2020 of the Kareelakulangara Police Station. The petitioners are alleged to have committed the offences punishable under Sections 8(1) and (2) of the Kerala Abkari Act.

3. The prosecution allegation, in brief, is that; on 07.03.2020, the petitioners were found in possession of 500 ml of arrack, which was poured in a glass and was kept on a motor cycle. Thus petitioners have committed the above offences.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor via video-conferencing.

5. The learned counsel for the petitioner argued that the petitioners are absolutely innocent of the accusations leveled against him. The police have falsely implicated the petitioners in the crime, on the assumption that it was the

petitioners who ran away from the scene of occurrence. The vehicle that was seized by the police, does not belong to the petitioners. There is no way that the petitioners can be implicated in the crime. Hence the petitioners may be granted an order of pre-arrest bail.

6. The learned Public Prosecutor submitted that there is sufficient material to substantiate that it the petitioners who have committed the crime. The petitioners may not be granted an order of pre-arrest bail. However, the learned Public Prosecutor conceded to the fact that the quantity involved in the case is only 500ml of arrack.

7. On a cumulative appreciation of the facts and circumstances of the case, especially considering that prima-facie there is no material to connect the petitioners with seized arrack from the scene of occurrence and that the seized vehicle does not belong to the petitioners and the petitioners' custodial interrogation is not necessary, I am convinced that this is a fit case to grant the petitioners an order of pre-arrest bail as provided under Section 438 of Code of Criminal Procedure.

8. In the result this bail application is allowed. The petitioners shall surrender before the Investigating Officer on or before 08/05/2020. Upon their surrender they shall be released on bail by the Investigating Officer, subject to the following conditions.

i) The petitioners shall be released on bail on executing a bond for a sum of Rs.50,000/ (Rupees Fifty thousand only) each, with two solvent sureties for the like sum each in the event of arrest by the police in connection with the crime in this bail application.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer as and when required by him. They shall cooperate with the investigation of the case.

(iii) The petitioners 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 them from disclosing such facts to the court or to any police officer or tamper with the evidence.

iv) The petitioners shall not commit any offence while on bail.

v) Needless to state that if the petitioners violates any of the conditions in this order, the Investigating Officer would be at liberty to move the jurisdictional Court and seek for cancellation of this bail order.

With the above observations, this bail application is allowed.

C.S.DIAS, JUDGE