

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 05TH DAY OF MAY 2020 / 15TH VAISAKHA, 1942

BA TMP.NO.218 OF 2020

(Crime No.30/2020 of Excise Range Office, Sreekandapuram, Kannur District)

Petitioner/Accused:

Sreejith. V. V, S/o Narayanan,
aged 36 years,
'Ilambilakandi', Machery, P. O. Kuttiyattur,
(Via) Mayyil, Kannur – 670 602.

By Advocate Sri.T. Manoj Kumar,

Respondents/Complainants:

1. State of Kerala,
represented by the Public Prosecutor, High Court of Kerala,
Ernakulam, Kochi – 682 031..
2. Excise Range Officer,
Sreekandapuram Excise Range,
Kannur District, PIN – 670 602.

BY Public Prosecutor SRI.AJITH MURALI & SRI.SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
05.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A.TMP.No.218 of 2020

Dated this the 5th day of May, 2020

O R D E R

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the accused in Crime No.30/2020 of Excise Range Office, Sreekandapuram, Kannur. The above case is registered against the petitioner alleging offence punishable under Section 55(g) of the Abkari Act. The petitioner was arrested on 31.3.2020.

3. The prosecution case is that, the petitioner was found in possession of 200 litres of wash.

4. The learned counsel for the petitioner submitted that he is in custody from 31.3.2020 onwards and he is ready to abide any conditions if this Court grant bail to the petitioner. He also submitted that the father of the accused underwent a surgery at Pariyaram Medical College in connection with his

kidney problem and the petitioner is the only person to look after him.

5. The learned Public Prosecutor opposed the bail application. According to the learned Public Prosecutor, huge quantity of material for manufacturing illicit arrack is seized from the petitioner.

6. After hearing both sides, according to me, this is not a fit case, in which the bail can be granted. Huge quantity of wash is seized from the petitioner, according to the prosecution. Wash is a material for manufacturing illicit liquor. The petitioner was arrested only on 31.3.2020. Moreover, when the bail application in an offence under the Abkari Act is opposed by the learned Public Prosecutor, the power of this Court to grant bail is limited.

7. Moreover, the jurisdiction to grant bail has to be exercised on the well settled principles laid down by the Hon'ble Supreme Court in **Chidambaram P v Central Bureau of Investigation (AIR 2019 SC 5272)** the following factors are to be taken into consideration while considering the

application for bail.

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

It is true that there is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be decided on the basis of the facts and circumstances of that case. In the

light of the general principles laid down in the above judgment and considering the facts and circumstances of this case, I am of the opinion that this is not a fit case in which the petitioner can be released on bail. Hence this Bail Application is dismissed.

P.V.KUNHIKRISHNAN, JUDGE

skj