

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE V.G.ARUN

THURSDAY, THE 30TH DAY OF APRIL 2020 / 10TH VAISAKHA,
1942

BAIL APPL.TMP NO.264 OF 2020

(Crime No.337 /2020 of Kanakakunnu Police Station,Alappuzha)

Petitioner/ Accused no 2

Akshith , S/o Reghu , aged 30 years
Thekke Vadampil House,
Kandalloor, South Muri ,
Kanakakunnu . Alappuzha .

By Adv. M R Sasith Panicker

RESPONDENTS

1. State of Kerala,
Represented by the Public Prosecutor,
High Court of Kerala, Ernakulam. Pin 682031
2. The Station House Officer,
Kanakakunnu Police Station ,
Alappuzha .Pin 690535

BY PUBLIC PROSECUTOR SRI.M.K.PUSHPALATHA.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.G.ARUN, J.

B.A. TMP No. 264 of 2020

Dated this the 30th day of April, 2020.

ORDER

The petitioner is the 2nd accused in Crime No.337/2020 of Kanakakunnu Police Station, registered for offences punishable under Sections 188, 269, 270 & 34 of the Indian Penal Code, Sections 8(1) and (2) of the Kerala Abkari Act, and Section 5 of the Kerala Epidemic Disease Ordinance, 2020.

2. The prosecution allegation is that, on 3.4.2020 at around 8.30 pm, the bike driven by the 1st accused, in which the petitioner was the pillion driver, was intercepted. On seeing the police party, the 1st accused ran away from the scene and the petitioner was apprehended. On inspection, 500 ml of illicit arrack was seized from the motor cycle, and the petitioner arrested.

3. The learned counsel for the petitioner submits that the

petitioner was unaware of the fact that the rider of the bike was carrying illicit liquor, and in any case he has been in custody from 3.4.2020 onwards.

4. Heard the learned Public Prosecutor also.

5. Considering the fact that the quantity of illicit arrack recovered is only 500 ml, and as also the fact that the petitioner has been in custody from 3.4.2020 and he is not involved in any other criminal offence, I deem it appropriate that the petitioner be released on bail.

6. The well accepted principle of bail being the rule and jail the exception, has been reiterated by the Honourable Supreme Court time and again. [See **Nikesh Tarachand Shah v. Union of India [(2018) 11 SCC 1]** and **P.Chidambaram v. Directorate of Enforcement [AIR 2019 SC 5272]**].

7. Considering the need to follow social distancing norms inside prisons so as to avert the spread of the novel Corona-virus pandemic, the Honourable Supreme Court in **Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition**

(C). No.1 of 2020) and a Full Bench of this Court in **W.P(C).No.9400 of 2020** issued various salutary directions for minimizing the number of inmates inside prisons.

8. Having due regard to the above mentioned orders/directions and the fact that the petitioner has been under remand from 3.4.2020 onwards, I deem it appropriate to allow the bail application by granting bail to the petitioner subject to the following conditions;

i) The petitioner shall furnish to the Superintendent of the jail where he is incarcerated, his phone number and the address at which he would be residing after his release. The petitioner shall also provide the address of his proposed sureties and two of his near relatives and submit an undertaking that on release, he would abide by the conditions of the lock down imposed by the Central and State Government and be in quarantine, if so required.

ii) On the aforementioned conditions being satisfied, the Superintendent of the Jail

shall release the petitioner with due intimation about such release to the Station House Officer of the Police Station where the crime against the petitioner has been registered and the Police Station within the jurisdiction of which the petitioner would be residing.

iii) Immediately after release from prison, the petitioner shall report before the Station House Officer of the jurisdictional Police Station and shall produce a copy of the undertaking he had furnished before the Jail Superintendent. The Station House Officer concerned shall keep vigil on the whereabouts of the petitioner and shall ensure that the petitioner does not violate the terms of the undertaking.

iv) The petitioner shall, within one week from commencement of functioning of the jurisdictional court, if the court is not functioning at present, execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties for the like

sum each to the satisfaction of the jurisdictional Court.

v) The petitioner shall co-operate with the investigation and shall not threaten or make any attempt to influence witnesses or tamper with the evidence.

**V.G.ARUN
JUDGE**

MMG/30.4.2020