

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 1ST DAY OF APRIL, 2020/12TH CHAITHRA, 1942

B.A. NO.1693 of 2020

(NDPS CRIME NO.9/2020 OF EXCISE RANGE OFFICE, NILAMBUR, MALAPPURAM)

PETITIONER/ACCUSED

Subair K, aged 26, Son of Saithalavi Haji,
Kulangarakkattil House, VilayoorAmsom - Desom,
PattambiTaluk, Palakkad.

By Advs. Sri. S. M. Prem,
Sri.P.Ramachandran

RESPONDENT/COMPLAINANT:

State of Kerala, Represented by its Public Prosecutor,
High Court of Kerala, Kochi – 682031.

By Sri. Suman Chakravarthy, Public Prosecutor

This Bail Application having come up for admission on 01/04/2020, the Court on the same day passed the following:-

p.t.o.

A.K. JAYASANKARAN NAMBIAR, J.

&

SHAJI P. CHALY, J.

B.A.NO.1693 OF 2020

Dated this the 1st day of April, 2020

ORDER

Shaji P. Chaly, J.

The Petitioner is the accused in Crime no.9/2020 of Nilambur Excise Range, registered with offences punishable under Section 22(b) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985. He was arrested on 13.2.2020 and remains in judicial custody. He seeks regular bail under Section 439 of the Code of Criminal Procedure.

2. The application is seriously opposed by the learned Public Prosecutor contending that there is no instruction as to whether any other cases are registered against the petitioner .However it is submitted that the case of the petitioner is taken care of as per the Full Court order of the High Court of Kerala dated 30.3.2020 in W.P.(C).No.9400/2020 [Suo Motu]. But learned counsel for petitioner submitted that in spite of the order of the full bench, the superintendent of jail is not releasing the petitioner.

3. Heard the learned counsel appearing for the petitioner and the learned public prosecutor. We have gone through the records which are made available.

4. Though prima facie, the allegations appear to be severe in nature, taking into account the present emergent situation of COVID-19 pandemic and the directives and advisories issued by the Central and State Governments for social distancing and for decongestion of jails, we are of the considered view that provisional bail can be granted to the petitioner for a period of 30 days.

5. In the result, this application will stand allowed. The petitioner is granted provisional Bail and we direct the Superintendent of the jail wherein, the petitioner is incarcerated to release him on bail on the petitioner executing a personal bond without sureties. The above order shall be subject to the following conditions:

(a) The petitioner shall furnish to the Jail Superintendent the permanent place of his abode and he shall undertake that he shall remain in quarantine for a period of 30 days from the date of this order. He shall also furnish his phone number and the phone number of his immediate relative. Before releasing the petitioner, the Superintendent of jail concerned shall verify the above details. The Superintendent of Jail shall also intimate the release of the petitioner to the SHO of the Police Station which has registered the crime.

(b) On being released from prison, the petitioner shall report before the jurisdictional police station and shall furnish a copy of the undertaking furnished before the Jail Superintendent. The SHO concerned shall ensure that the petitioner does not leave the premises where he has undertaken to remain in quarantine till such time the lockdown period continues in force, otherwise than for emergent situations, and exceptional reasons provided under the orders passed by Central and State Governments, for COVID-19 pandemic.

(c) The petitioner shall not tamper with the evidence or influence, persuade, threaten or coerce any prosecution witnesses in any manner whatsoever.

(d) The petitioner shall not commit any offence while on bail.

(e) On the expiry of 30 days ordered as above or within three days of the withdrawal of the lockdown by the government, whichever is earlier, the petitioner shall appear before the jurisdictional Court and seek regular bail. This provisional bail granted is on the basis of the present emergent situation also. However, if the accused is committing or attempting to commit any crime during the bail period, it will not deter the police or the jurisdictional court to take appropriate action in accordance with law.

(f) If the petitioner violates any of the conditions above, the Station House Officer may approach the jurisdictional Sessions Court and may move an application for cancellation of bail, which shall be considered and disposed of by the said court notwithstanding the fact that interim bail has been granted by this Court.

A.K.JAYASANKARAN NAMBIAR
JUDGE

SHAJI P. CHALY
JUDGE