IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 23RD DAY OF JULY 2024 / 1ST SRAVANA, 1946

BAIL APPL. NO. 5763 OF 2024

CRIME NO.58/2024 OF AMARAVILA EXCISE RANGE OFFICE, THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

SALIMAN
AGED 55 YEARS
S/O. MATHUNAYAKAM, AYANTHITHOTTAM VEEDU, PULLENTHERI, KUNNATHUKAL, KUNNATHUKAL VILLAGE, NEYYATTINKARA TALUK, THIRUVANANTHAPURAM, PIN - 695504

BY ADVS.
SRI.R.HARIKRISHNAN (H-308)
SRI.G.SUDHEER

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN – 682031.

BY SR.PP.SMT.SEEHTA S.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 23rd day of July, 2024

The application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, by the sole accused in Crime No.58/2024 of the Amaravila Excise Range Office, Thiruvananthapuram, which is registered against him, for allegedly committing the offences punishable under Sections 58 and 55(i) of the Kerala Abkari Act, 1 of 1077. The petitioner was arrested and remanded to judicial custody on 01.07.2024.

2. The essence of the prosecution case is that: on 01.07.2024, at around 07.20 hours, the accused was found in conscious possession of 1.62 litres of liquor with Rs.200/- as sale proceeds. The accused was arrested on the spot with the contraband article. Thus, the accused has committed the above offence.

3. Heard Sri.G.Sudheer, the learned counsel appearing for the petitioner and Smt.Seetha S, the learned Senior Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations levelled against him. He has been falsely implicated in the crime. The petitioner has been in judicial custody since 21.06.2024, the investigation in the case is practically complete and recovery has been effected. Hence, the petitioner may be released on bail.

5. The learned Public Prosecutor opposed the application. The learned Public Prosecutor submitted that the petitioner has one criminal antecedent. She submitted that the investigation is in progress, and if the petitioner is released on bail, he would commit a similar offence. Hence, the application may be dismissed.

6. On an anxious consideration of the facts, the rival submissions made across the Bar and the materials placed on record, especially on considering the fact that the petitioner has been in judicial custody since 01.07.2024, that the investigation in the case is practically complete and recovery has been effected, I am of the view that the petitioner's further detention is unnecessary. Hence, 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.50,000/- (Rupees fifty thousand 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 alternate Saturdays between 9 a.m. and 11 a.m for a

period of three 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 them 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 they are 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 Anr.*** [2020 (1) KHC 663].

Sd/-

C.S.DIAS
JUDGE

NAB