

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM

Present: Sri. P.K. Mohandas, Judge for NIA Cases

Friday the 14th day of June 2024/24th Jaishtha, 1946

Crl.M.P. No. 484/2023

In

SC No.02/2023

Petitioner/Accused No. 44 : Sahad.M, Age-23/2023, S/o.Muhammed Basheer, Parappathodi House, Industrial Estate, Thazhemurali, Pudukkottai, Palakkad District, Kerala.

By Adv. M/s. Sri. N.A. Shafeek

Respondent/Complainant : Union of India represented by National Investigation Agency, Kochi.

**Represented by Sri. Ajith Kumar.S
(Special Public Prosecutor, NIA) and
Sri. Sreenath.S.
(Public Prosecutor, NIA).**

This petition is coming on for hearing before me on 03.06.2024 and the Court on 14.06.2024 passed the following:

ORDER

This petition is filed by the 44th accused in the case under rule 292 of the Kerala Prisons and Correctional Services (Management) Rules, seeking permission to grow his beard according to his religious belief.

2. The petitioner is alleged to have committed the offence punishable under sections 120B, 34, 109, 115, 118, 119, 143, 144, 147, 148, 449, 153A, 341, 302, 201, 212 r/w.s. 149 of the IPC and Section 3(a)(b)(d) r/w 7 of the Religious Institutions (Prevention of Misuse) Act, 1988, Section 13, 16, 18, 18A, 18B, 20, 22C, 23, 38 and 39 of the UAPA and Section 25(1) of the Arms Act. The petitioner is in remand in connection with this case in Central Prison, Viyyur.

3. According to the petitioner he is professing Muslim religion and has the right to follow the customs and rites of the religion. According to him, as per the religious belief he is not supposed to shave his beard, but, the jail authorities are not permitting the petitioner to grow his beard and compelling the petitioner to cut and shave his beard. It is contended that the insistence for cutting and shaving the beard is against his belief. As per Rule 292(1) of the Kerala Prisons and Correctional Services (Management) Rules, the petitioner has the right to grow his beard. The petitioner seeks a direction to the Superintendent of Central Prison, Viyyur to permit the petitioner to grow his beard.

4. I have heard the counsel for the petitioner and the Special Public Prosecutor and perused the records.

5. The Superintendent of Central Prison, Viyyur, filed a report stating for maintaining the hygiene among the prisoners and for maintenance of

discipline cutting of hair and shaving of beard is necessary. According to him, as per rules shaving of beard and cutting of hair is mandatory. It is also reported that if the prisoner has been growing his beard and hair under religious belief, he could have made a request to the Superintendent of the Jail under Rule 292(2) of the Kerala Prisons and Correctional Services (Management) Rules to permit him to grow his beard. It is also reported that the petitioner was not growing his beard at the time of admission in the prison or thereafter.

6. I have heard the counsel for the petitioner and the Public Prosecutor in detail. The petitioner was also produced through video conference and he also submitted that he wants to grow his beard as per his religious belief. The submission of the counsel for the petitioner is that as per the religious belief the petitioner is entitled to grow his beard. The learned Public Prosecutor opposed the application stating that if the petitioner is permitted to grow his beard, there may be difficulty in identification of the accused at the time of trial.

7. As stated above, the Superintendent of the Central Prison has reported that if the petitioner had filed a petition for permission he could have been granted permission under rule 292(2) of the Prisons and Correctional Services (Management) Rules 2014. The objection of the Superintendent is that he was not growing his beard at the time of his admission in the jail. But, that is not a ground to deny the right of the petitioner. As other prisoners of the

same religion are permitted to grow their beard, such right cannot be denied to the petitioner. So, I am of the view that the petitioner can be permitted to grow his beard, subject the restrictions, if any, in the relevant statutes.

Hence the petition is allowed and the petitioner is permitted to grow his beard in accordance with his religious belief, subjected to the restrictions, if any, in the relevant statutes. Copy of the order shall be communicated to the petitioner.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 14th day of June, 2024.

Appendix: Nil

//True Copy//

Sd/-
P.K. Mohandas
Judge, Special Court for NIA Cases

Id/-
Judge, Special Court for NIA Cases
(By Order)

Sd/-
Sheristadar.