

Abdul Basith vs State of Kerala

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Court : Kerala

Decided On : Jan-31-2024

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : Bail Appl./104/2024

Appellant : Abdul Basith

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
WEDNESDAY, THE 31ST DAY OF JANUARY 2024 / 11TH MAGHA,
1945 BAIL APPL. NO. 104 OF 2024 CRIME NO.716/2023 OF
MANKADA POLICE STATION, MALAPPURAM AGAINST THE
ORDER/JUDGMENT BAIL APPL. 10213/2023 OF HIGH COURT OF
KERALA PETITIONER/ACCUSED NO.2: ABDUL BASITH AGED 27
YEARS, S/O. MUHAMMED HANEEFA, KERALAMTHODI HOUSE,
PULIKKAL PADI P.O., MALAPPURAM DISTRICT, PIN - 673637 BY
ADV K.RAKESH RESPONDENTS/STATE & COMPLAINANT: 1 STATE
OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM, KOCHI, PIN - 682031 2 THE

STATION HOUSE OFFICER MANKADA POLICE STATION,
MALAPPURAM DISTRICT, PIN - 679324 SMT.NIMA JACOB, PP THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31.01.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: ..2..

MOHAMMED NIAS C.P., J.

----- B.A.No. 104 OF 2023 ----- Dated this
the 31st day of January, 2024

ORDER

This is the second bail application filed under Section 439 of the Code of Criminal Procedure, seeking regular bail.

2. The petitioner is the second accused in Crime No. 716/2023

of Mankada Police Station, Malappuram District, for having allegedly committed offences punishable under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act.

3. The prosecution case is that on 27- 12-2022 at or about 1.25

hours, the first accused was found on a scooter bearing registration No.KL 53/S 9255 carrying 23 grams of MDMA, which was allegedly meant for sale, and it is the prosecution case that the second accused/ petitioner sold the contraband to the first accused and thereby committed the offence.

4. The learned counsel appearing for the petitioner would say that the petitioner is totally innocent and falsely implicated with ulterior motives. At any rate, he points out that the petitioner has been in custody ..3.. since 16/01/2023, and continued custody of the petitioner is unnecessary.

5. The learned public prosecutor opposed the petition.

6. After having considered the submissions of the learned

counsel for the petitioner and learned Public Prosecutor and considering the nature of the allegations against the petitioner, the chemical analysis report in the instant case shows that the contraband article seized is Methamphetamine, as is seen from Annexure A order itself of the Sessions Court rejecting the bail application. Since only an intermediate quantity is involved, the fact that he has been in custody since

an intermediate quantity of Methamphetamine is involved, and also since there is no apprehension raised by the prosecution that if released on bail, the petitioner is likely to abscond, I am inclined to grant bail to the petitioner though the petitioner is an accused in one more crime, Crime No.21/2023 of Mankada Police Station for having found in possession of 3 grams of MDMA, this Court has already granted bail by order dated

petitioner. Accordingly, this application is allowed, and the petitioner is granted bail subject to the following conditions:- ..4..

(i) The petitioner shall be released on bail on executing a bond

for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction; one of the sureties shall be a parent or close relative of the petitioner.

(ii) The petitioner shall appear before the Investigating Officer on all Saturdays between 9 a.m. and 11 a.m. for three months.

(iii) The petitioner shall not intimidate or attempt to influence the witnesses, nor shall he tamper with the evidence or do anything that might adversely affect the trial;

(iv) The petitioner shall not commit any offence while on bail;

(iv) The petitioner shall not leave the State of Kerala without the permission of the Court having jurisdiction;

(vi) The petitioner shall surrender his passport, if any, within

seven days from the date of his release before the Court concerned, and if the release of the passport is required at a later period, the petitioner shall be at liberty to move an appropriate application for the same before the court having jurisdiction. If the petitioner has no passport, he shall file an affidavit to that effect before the court concerned on the date of execution of the bond or within three days thereafter.

(vii) The petitioner shall furnish his present address and mobile ..5.. numbers to the Court concerned and the investigating officer. (viii) In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation of bail and pass appropriate orders in accordance with law. Sd/- MOHAMMED NIAS C.P. JUDGE APA ..6.. APPENDIX OF BAIL APPL. 104/2024 PETITIONER ANNEXURES Annexure A A TRUE COPY OF THE ORDER IN

CRL.M.P.NO.3/2023 FILED BEFORE THE SPECIAL COURT FOR SC/ST (POA) ACT & NDPS ACT CASES, MANJERI DATED 08-11Annexure B TRUE COPY OF THE COMMON ORDER DATED 23-11-2023 IN BAIL APPL.10211/2023 &

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