

Ajin vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-04-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./10945/2023

Appellant : AJIN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS THURSDAY, THE 4TH DAY OF JANUARY 2024 / 14TH POUSHA, 1945 CRIME NO.1673/2023 OF Vaikom Police Station, Kottayam PETITIONER/S: AJIN AGED 21 YEARS SON OF PRADEEP SINGH , T.N MANDIRAM HOUSE, KUNNATHUKAL VILLAGE, KARAKKONAM (P.O), NEAR CSI MEDICAL COLLEGE, NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - BY ADV M.J.POLLY RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 OTHER PRESENT: SR PP SMT NEEMA T V THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04.01.2024, THE COURT ON THE

SAME DAY DELIVERED THE FOLLOWING:

ORDER

The application is filed under Section 439 of the

Code of Criminal Procedure, 1973 by the 7th accused in Crime No.1673/2023 registered by Vaikom Police Station, Kottayam alleging the accused to have committed the offences punishable under Sections 22(c), 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, Act). The petitioner was arrested on 02.11.2023.

2. The prosecution case, in brief, is that: on 06.10.2023 at about 11.25 a.m. while the Sub Inspector of

Police and party was conducting patrolling, they questioned the accused 1 and 2 in Thottuvakkom. They seized 32.12 grams of MDMA from the body of the 1st accused with medical assistance. The accused 1 and 2 were arrested from the spot. During interrogation, the accused 1 and 2 revealed the role of accused 2 to 8. Consequently, the said accused were also arrested. Thus, the accused have committed the above offences.

3. Heard; Sri.Polly M.J., the learned counsel appearing for the petitioner and Smt.Neema T.V., the learned Public Prosecutor appearing for the respondent.

4. The learned counsel for the petitioner submitted that the petitioner is absolutely innocent of the accusations leveled against him. He is a final year BSc.

Nursing student studying in Bangalore. The only allegation made against the petitioner is that he had transferred certain money to the bank account of another accused. The petitioner is in judicial custody since 04.11.2023. The petitioner is willing to abide by any stringent conditions imposed by this Court. Hence, the application may be allowed.

5. The learned Public Prosecutor vehemently

opposed the application. She contended that in the investigation conducted it was revealed that there were financial transactions between the petitioner and accused 4 and 8. The investigating officer seized the passbooks, call history, payments made by Google pay accounts and other incriminating materials. These materials clearly revealed the complexity of the petitioner. It is revealed that the petitioner had an amount of Rs.15,72,227/- in his bank account. This very fact is enough to prove that the petitioner is guilty of the offences leveled against him.

The investigation is still in progress. Hence, the application may be dismissed.

6. Sec.37 of the Act stipulates that a person accused

of an offence under the Act involving commercial quantity shall not be released on bail unless the court is satisfied that there are reasonable grounds for believing that the accused is not guilty and is not likely to commit any offence while on bail. Therefore, the power to grant bail for a person accused of committing an offence under the Act is not only subject to provisions contained under Sec.439 of the Code, but also subject to being satisfied of the fulfilment of the twin conditions under Sec.37 of the Act.

After bestowing my anxious consideration to the materials placed on record and particularly taking note of the fact that the incriminating materials seized by the

investigating agency during investigation and also considering the commercial quantity of the contraband article that is involved in the case, I am at this stage not convinced that the petitioner is not guilty of the offence alleged against him and that he may not commit a similar offence, if enlarged on bail, so as to dilute the rigour under Sec.37 of the Act. I do not find any satisfactory ground to release the petitioner on bail. The application is meritless.

In the result, the application is dismissed. Sd/- C.S.DIAS JUDGE rkc/04.01.24
APPENDIX OF BAIL APPL. 10945/2023 PETITIONER ANNEXURES Annexure
A1 DISMISSED ORDER FROM THE NDPS COURT, THODUPUZHA IN CRL. MC
NO. 249/ 2023 DATED 20-11-2023. Annexure A2 COPY OF THE IDENTITY
CARD OF THE PETITIONER Annexure 3 COPY OF EXAM RESULT Annexure

A4 EXAMINATION NOTIFICATION

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