

**Arjun B vs State of Kerala**

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**Court :** Kerala

**Decided On :** Feb-09-2024

**Judge :** Honourable Mr.Justice C.S.Dias

**Appeal No. :** Bail Appl./11321/2023

**Appellant :** Arjun B

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 9TH DAY OF FEBRUARY 2024 / 20TH MAGHA, 1945 BAIL APPL. NO. 11321 OF 2023 CRIME NO.1673/2023 OF Vaikom Police Station, Kottayam PETITIONER/S: ARJUN B AGED 21 YEARS S/O BALACHANDRAN UDHAYANACHAN VEED KUREEPUZHA, KAVANAD P.O KOLLAM KERALA, PIN - 682305 BY ADVS. FRANCIS ASSISI T.D.ROBIN AJEESH S.BRITE AMRUTHA P S LINU G. NATH MANJU LUCKOSE RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 SMT. SHYNI V.O. SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.02.2024, ALONG WITH B.A.NO.516/2024,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 9TH DAY OF FEBRUARY 2024 / 20TH MAGHA, 1945 BAIL APPL. NO. 516 OF 2024 CRIME NO.1673/2023 OF Vaikom Police Station, Kottayam AGAINST THE ORDER/JUDGMENT Bail Appl. 10945/2023 OF HIGH COURT OF KERALA PETITIONER/S: AJIN AGED 21 YEARS S/O PRADEEP SINGH , T.N MANDIRAM HOUSE, KUNNATHUKAL VILLAGE, KARAKKONAM (P.O), NEAR CSI MEDICAL COLLEGE, NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 695504 BY ADV M.J.POLLY RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 SMT. SHYNI V.O. SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.02.2024, ALONG WITH B.A.NO.11321/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Dated this the 9th day of February, 2024

## **ORDER**

The applications are filed under Section 439 of the

Code of Criminal Procedure, 1973, by accused Nos.7 and 8 in Crime No.1673/2023 of the Vaikom Police Station, Kottayam, registered against the accused (eight in number) for allegedly committing the offences punishable under Sections 22 (c), 27(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, the Act). The 7th accused was arrested on 02.11.2023 and the 8 th accused was arrested on 03.11.2023.

2. The prosecution case, in brief, is that: on 06/10/2023

at about 11.25 am, 32.12 grams of MDMA was seized from the possession of the 1st accused, who in turn confessed that the petitioners had aided in procuring the contraband article. Thus, the petitioners have committed the above offences.

3. Heard; Sri. Polly M.J and Sri.Francis Assisi, learned counsel appearing for the petitioners and Smt.Neema T.V , the learned Senior Public Prosecutor.

4. The learned counsel appearing for the petitioners submitted that the petitioners have been falsely implicated

in the crime. They are totally innocent of the accusation levelled against them. When B.A No.11321 of 2023 came up for consideration on 11.01.2024, this Court granted interim bail to the 8th accused on the ground that the Chemical Analysis Report was not produced before this Court, despite the lapse of the statutory period under Rule 14 of the Narcotic Drugs and Psychotropic Substances (Seizure,

Storage, Sampling and Disposal) Rules, 2022. Subsequently, by order dated 01.02.2024, the 7 th accused was also granted interim bail on the same ground. The petitioners have reliably learnt that as per the chemical analysis report of the Regional Forensic Science Laboratory, the contraband is methamphetamine and not MDMA. The contraband is of an intermediate quantity. Hence, the interim orders may be made absolute.

5. The learned Public Prosecutor opposed the

application. Nonetheless, she conceded to the fact that the petitioners are on interim bail as submitted by the respective counsel. She also handed over the chemical analysis report dated 25.01.2024 of the Regional Forensic Science Laboratory, Thripunithura, Kochi, which shows that the contraband is methamphetamine and not MDMA.

6. The prosecution was lodged against the accused

principally on the ground that the accused were found in possession of 32.12 grams of MDMA which was seized from the body of the 1st accused. Therefore, the contraband is of a commercial quantity. It is on the said basis, that the petitioners were arrested and remanded to judicial custody. Now it is turned out that as per the chemical analysis

report dated 25.01.2024, the contraband article is methamphetamine and not MDMA. Therefore, the contraband is of an intermediate quantity.

7. On an anxious consideration of the facts, the materials placed on record, particularly after going through the chemical analysis report dated 25.01.2024, that the

contraband is of an intermediate quantity, that the petitioners have already been released on bail, and that the petitioners have no criminal antecedents, I am of the definite view that the orders of interim bail have to be made absolute.

In the result, the applications are allowed. The interim orders dated 11.01.2024 and 01.02.2024 in the above bail applications are made absolute. Sd/- C.S.DIAS, JUDGE rkc/09.02.24 APPENDIX OF BAIL APPL. 11321/2023 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE ORDER IN CRL.M C NO. NDPS CASES, AT THODUPUZHA APPENDIX OF BAIL APPL. 516/2024 PETITIONER ANNEXURES Annexure A1 THE ORDER OF THE HIGHCOURT IN BAIL APPLICATION NO. 11321/ 2023 DATED 11-01- Annexure 2 ORDER DATED 04-01-2024 IN BAIL APPL.10945/2023 ON HIGH COURT

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