

Arjun E K, vs State of Kerala,

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Court : Kerala

Decided On : Dec-15-2023

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

Appeal No. : Bail Appl./7624/2023

Appellant : Arjun E K,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
FRIDAY, THE 15TH DAY OF DECEMBER 2023 / 24TH AGRAHAYANA,
1945 BAIL APPL. NO. 7624 OF 2023 CRIME NO.1/2023 OF
NARCOTICS CONTROL BUREAU, KOCHI, ERNAKULAM
PETITIONER/ACCUSED NO.2: ARJUN E K, AGED 25 YEARS S/O.
SASIDHARAN E K, EERAYINTHAZHAKUNI, KACHERY P.O,
KOZHIKODE DISTRICT-673006 BY ADVS. P.MOHAMED SABAH LIBIN
STANLEY SAIPOOJA R.GAYATHRI SADIK ISMAYIL M.MAHIN HAMZA
ALWIN JOSEPH RESPONDENT/COMPLAINANT & STATE: 1 STATE
OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM-682031 2 INTELLIGENCE

OFFICER, NARCOTIC CONTROL BUREAU, ZONAL UNIT, KOCHI-682030 SRI.RAJAGOPALAN NAIR.K.R., CGC SRI.NAVANEETH N. NATH SRI.M.C.ASHI, PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12.12.2023, ALONG WITH Bail Appl..8737/2023, THE COURT ON 15.12.2023 DELIVERED THE FOLLOWING: -2-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. FRIDAY, THE 15TH DAY OF DECEMBER 2023 / 24TH AGRAHAYANA, 1945 BAIL APPL. NO. 8737 OF 2023 CRIME NO.1/2023 OF NARCOTICS CONTROL BUREAU, KOCHI, Ernakulam PETITIONER/ACCUSED NO.3: SHERIN N.S, AGED 36 YEARS S/O.SURENDRANATH N.M, NAISSERIYIL HOUSE "SREEVALSAM", ONIYAPALAM, VALANCHERI P.O, KATTIPPARUTHI, MALAPPURAM DISTRICT-676552 BY ADV NIREESH MATHEW RESPONDENT/COMPLAINANT & STATE: UNION OF INDIA, REP. BY INTELLIGENCE OFFICER, NARCOTICS CONTROL BUREAU, ZONAL UNIT, COCHIN, REPRESENTED BY THE SPECIAL PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031 SRI.RAJAGOPALAN NAIR.K.R., CGC SRI.NAVANEETH N. NATH SMT.T.V.NEEMA, SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12.12.2023, ALONG WITH Bail Appl..7624/2023, THE COURT ON 15.12.2023 DELIVERED THE FOLLOWING: -3- MOHAMMED NIAS C.P.J

..... Dated this the 15th day of December, 2023

ORDER

These are applications for regular bail filed under Section 439 of the Code of Criminal Procedure.

2. The petitioners are accused Nos. 2 and 3 respectively in OR No.1/2023 of NCB Kochi, registered for offences punishable under Sections 22 (c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The prosecution allegation is that on 30.03.2023 at 9.00 a.m., based on information received by NCB search was conducted at the DTDC Express Limited, Vengara, Malappuram and found that 99 grams of Amphetamine was received as a courier parcel and the contraband article was transported by the petitioners in conspiracy which one Abdul Jalee, and thereby committed the above offence. -4-

4. The learned counsel appearing for the petitioners and the learned Public Prosecutor were heard.

5. Learned counsel for the petitioner in BA No.762/2023, argues that there is no material to connect the petitioner with the crime apart from the payment of Rs.500/-. It is also argued that all the contraband was mixed, and there is a violation of the relevant Rules. It is also argued that apart from the voluntary statement of the petitioner there is no material to connect the said accused with the crime.

6. Learned counsel for the petitioner in BA No.8737/2023 also makes similar argument and submits that apart from the vague allegations of payment of Rs.500/- he has not sent the contraband or received the same for him to be implicated in the crime. He also cited the judgment of the Supreme Court in State by (NCB) Bengaluru and others v. Pallulabid Ahmad Arimutta and others [2021 (1) KHC 853) as well as the order of this Court in BA No.2776/2023.

7. In answer, the learned counsel for the respondent filed a statement which specifies the role of the petitioners. The relevant portion of the statement is extracted hereunder:-

4. The investigation Officer then summoned two persons -5- Arjun E.K. (A-2) & Sherin N.S. (A-3) for enquiry. Arjun E.K. (A-2) was the consigner of the parcel originated from DTDC, Bommanahalli, bangalore & Sherin N.S. Procured the drug from the supplier identified as one person named Haadi @ Shifas (A-4). As per the voluntary statement of Arjun and Sherin

N.S.(A-3), Abdul Jaleel (A-1) used to procure MDMA and other Psychotropic drugs from Bangalore through Haadi @ Shifas (A-4). Abdul Jaleel (A-1) produced the drugs from Bangalore sometimes in person, with the help of Arjun EK (A-2) and Sherin NS (A-3) and he used to get it to Matappuram by Arjun and Sherin NS (A-3) through couriers. Also, Abdul Jaleel (A-1) had arranged, procured drugs in this manner multiple times and sent through Courier from Bengaluru to Malappuram, with the involvement of Arjun and Sherin N S (A-3). All the times, the parcel was destined with the same Consignee address to a fruit vendor near his shop. In the voluntary statement of Arjun EK (A-2) it is revealed that Arjun EK (A-2) Sherin NS (A-3) and Abdul Jaleel (A-1) are associates of drug business. Sherin NS(A-3) handed over a drug packet to Arjun E K

(A2) for sending it to Abdul Jaleel (A-1). He received and

repacked the drugs in his house as per the directions of Sherin N S (A-3) given an address to Arjun EK (A-2) along with a phone number to send drug. Arjun E.K. (A-2) went to DTDC Express courier services, Bommanahalli for sending the parcel on 24.03.2023. A-2 paid Rs.150/- as courier charge and Sherin N S (A-3) sent Rs.500/- to Arjun E.K. (A-2) via UPI payment. He also revealed that he sent drug -6- to Kerala from Bengaluru for three times

In his statement, Sherin N S. (A-3) also revealed that Arjun EK (A-2) and Abdul Jaleel (A-1) are his friends and they are drug peddlers. Sherin NS (A-2) had a long friendship with Thanveer PB (A-6) and Thanveer PB visited his house at Bengaluru many times. Thanveer PB (A-6) is a drug supplier and he had many drug supplier friends in Bengaluru. Thanveer is also a friend of Abdul Jaleel (A-1) and Thanveer PB (A-6) arranged drugs to Abdul Jaleel (A-1) Abdul Jaleel (A-1) sent amount Rs.1,10,000/- to the account of Sherin NS (A-3) and he further transferred around Rs.1,00,000/- to the account of Thanveer P.B.(A-6) for purchasing the seized drug. Sherin N.S. (A-3) kept Rs,10,000/- as profit amount from the

1,00,000/- After that, Thanveer PB (A-6) arranged drug for Abdul Jaleel (A-1) and shared the location and photo in whatsapp to Sherin NS (A-3). Sherin MNS (A-3) collected the drugs from the shared location and given to Arjun EK (A-2) for sending the drug to Abdul Jaleel (A-1). Sherin NS (A-3) supplied drugs to Abdul Jaleel (A-1) for 10 times. He also revealed that his one accomplice Shifas R N (A-4) is involved in drug trafficking and give the mobile number and account number of Shifas R N ((A-4).

8. A reading of the above would clearly show the involvement of A2 and A3 in the crime. Initially, in the report filed on behalf of the NCB only -7-

the payment of Rs.500/- was mentioned. However as directed by this Court in the subsequent statement filed, further details of their involvement are mentioned. Under such circumstances, since commercial quantity is involved, the rigour of Section 37 of the NDPS Act also applies. I am not inclined to consider the request of the petitioners for bail. I do not find anything in support of the petitioners in the judgments relied on as prima facie, there are materials to connect the petitioner with the crime.

Accordingly, these applications are dismissed. Sd/- MOHAMMED NIAS C.P. JUDGE dlk/12.12.2023 -8- APPENDIX OF BAIL APPL. 8737/2023 PETITIONER'S ANNEXURES Annexure 1 TRUE PHOTOCOPY OF THE OCCURRENCE REPORT IN OR.NO.1/2023 OF NARCOTICS CONTROL BUREAU, ZONAL UNIT, COCHIN DATED 31.03.2023 Annexure 2 TRUE PHOTOCOPY OF THE COMMON ORDER DATED

22.05.2023 IN CRL.MP. NO.1186/2023 PASSED BY THE SPECIAL COURT FOR SC/ST (POA) ACT & NDPS ACT CASES, MANJERI RESPONDENTS ANNEXURES Annexure R1 WHATS APP SCREEN SHORTS AMONG SHERIN N.S.

(A3) AND ARUN E.K. (A2)

-9- APPENDIX OF BAIL APPL. 7624/2023 PETITIONER'S ANNEXURES Annexure 1 TRUE COPY OF THE REMAND REPORT OF THE PETITIONER IN

O.R. NO. 1/2023 OF NCB, KOCHI Annexure 2 TRUE COPY OF THE OCCURRENCE REPORT IN O.R. NO. 1/2023 OF NCB, KOCHI Annexure 3 TRUE COPY OF THE SEIZURE MAHAZAR IN O.R. NO. Annexure 4 TRUE COPY OF THE ORDER DATED 22.05.2023 IN CRL.M.P. NO. 1156/2023 PASSED BY THE HONORABLE SPECIAL COURT, MANJERI

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