

Shemeer, vs State of Kerala

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Court : Kerala

Decided On : Jan-04-2023

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./8904/2022

Appellant : Shemeer,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 4TH DAY OF JANUARY 2023 / 14TH POUSHA,
1944 BAIL APPL. NO. 8904 OF 2022 PETITIONER/SOLE ACCUSED:
SHEMEER, AGED 36 YEARS S/O.HASHIM, R/AT BADRA MANZIL,
MANIMUNDA, UPPALA GATE, MANJESHWAR, KASARAGOD., PIN -
671322 BY ADVS. T.B.SHAJIMON GOVINDU P.RENUKADEVI
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031
BY SRI. M.C. ASHI (PP) THIS BAIL APPLICATION HAVING COME UP
FOR ADMISSION ON 04.01.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: Bail Appln. No. 8904 of 2022 2

VIJU ABRAHAM , J.

===== Bail Appln. No. 8904 of 2022
===== Dated this the 4th day of January,
2023

ORDER

This is an application for regular bail.

2. The Petitioner is the sole accused in Crime No. alleging commission of offence punishable under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act.

3. The prosecution allegation is that, on 26.08.2021 at

about 11.35 P.M, when the dictating officer and party were doing patrol duty near Uppala Railway Station road at Uppala, Kasargod, the petitioner was found in possession of 11 grams of MDMA in his car bearing Reg. No. KL-60H-543 for sale without any license and in violation of the NDPS Act and thereby the accused has committed the alleged offence.

4. The petitioner submitted that he is in custody from

05.08.2022. The specific case of the petitioner is that even though the crime was registered on 26.08.2021, he was arrested only on 05.08.2022. He has been arrayed as an accused only for the reason that his election identity card was found inside the said car. Bail Appln. No. 8904 of 2022 3

5. The learned Public Prosecutor upon instructions

submitted that petitioner was found inside the car and he ran away when he was attempted to be apprehended. Petitioner was subsequently apprehended on 05.08.2022. The learned Public Prosecutor further submitted that 11 grams of MDMA was found inside the car and petitioners identity card was also found inside the vehicle. The Counsel for the petitioner has a specific case that the alleged

contraband is not MDMA

and based on the said submission a report was called for from the forensic lab concerned and the learned Public Prosecutor upon instructions and on the basis of the report issued by the Regional Forensic Science Laboratory, Kannur, submitted that the alleged contraband is Methamphetamine. Since the alleged contraband is Methamphetamine and not MDMA, it is only an intermediate quantity. The learned Public Prosecutor further submitted that petitioner has no other criminal antecedents and that the chargesheet has already been filed.

6. Considering all these aspects and taking into consideration the detention of the petitioner from 05.08.2022, I am inclined to grant bail to the petitioner, but only on stringent conditions.

Bail Appln. No. 8904 of 2022 4 In the result, the bail application is allowed and it is ordered that the petitioner shall be released on bail on the following stringent conditions:

(i) The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like- sum to the satisfaction of the jurisdictional court;

(ii) The petitioner shall not attempt to interfere with the investigation or to influence any witness in the above said crime;

(iii) The petitioner shall not involve in any other crime while on bail.

(iv) The petitioner shall not leave the State of Kerala without obtaining prior permission from the jurisdictional Court. If any of the aforesaid conditions are violated, the investigating officer in Crime No. 540/2021 of Manjeshwar Police Station, may file an application before the jurisdictional court, for cancellation of bail. Sd/- VIJU ABRAHAM JUDGE sbk/-

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