

Abhijith vs Excise Range Officer

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Court : Kerala

Decided On : Feb-10-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./485/2022

Appellant : Abhijith

Respondent : Excise Range Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. THURSDAY, THE
10TH DAY OF FEBRUARY 2022 / 21ST MAGHA, 1943 PETITIONERS:

1 ABHIJITH AGED 24 YEARS S/O RAMACHANDRAN,
CHULLIVALAPPIL HOUSE, KANIMANGALAM VILLAGE,
PANAMUKKODESOM, THRISSUR-680 027 2 ARJUN, AGED 19
YEARS S/O RAJAN, CHULLI PARAMBIL HOUSE, KANIMANGALAM
VILLAGE, PANAMUKKODESOM, THRISSUR-680 027 3 VYSHAK,
AGED 24 YEARS S/O DINESAN, THAYYIL VEETIL,
VATTAPPINNIDESOM, KANIMANGALAM VILLAGE, THRISSUR
TALUK, THRISSUR DISTRICT BY ADVS. RAVI KRISHNAN K.J.MANU

RESPONDENTS: 1 EXCISE RANGE OFFICER OFFICE OF EXCISE RANGE OFFICE, THRISSUR, THRISSUR DISTRICT, PIN-680004. 2 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM ADV NOUSHAD -SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: GOPINATH P., J ----- B.A. No.485 of 2022 ----- Dated this the 10th day of February, 2022

ORDER

Petitioners are accused Nos. 1 to 3 in Crime No.41/2021 on the files of Excise Range Office, Thrissur district for offences punishable under Section 22(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the Act').

2. The allegation against the petitioners is that, on

27.09.2021, petitioners 1 and 2 were found in possession of 11 grams of a substance which was believed to be MDMA and later proved to be methamphetamine. The third accused is alleged to have supplied the contraband to accused Nos.1 and 2. Accused Nos. 1 and 2 were arrested on 28.09.2021 and have been in custody since. The third petitioner/accused was arrested on 08.12.2021.

3. The learned counsel appearing for the petitioners

would submit that since the drug in question is found to be methamphetamine, the quantity of drugs seized is in intermediate quantity and therefore the bail application of the petitioners may be considered. It is submitted that the investigation is completed and a final report has been filed. It is submitted that continued detention of the petitioners is not necessary for the purpose of any investigation.

4. Heard the learned Public Prosecutor also. The learned

Public prosecutor submits that merely because of the fact that Section 37 of the Act is not attracted, the petitioners are not entitled to bail as of right. It is submitted that the petitioners were clearly engaged in trade of banned narcotic drugs and they are not entitled to bail as there is every chance of the offence being repeated in future. It is submitted that the petitioners were accused of another crime which is registered as Crime No.42/2021 of the same Excise Range Office, immediately after the registration of the crime, which is subject matter of this case. It is submitted that in Crime No.42/2021, the allegation is that the petitioners were found in conscious possession of 3.62 grams of methamphetamine.

5. Having regard to the facts, I am not inclined to grant

bail for the third petitioner for two reasons. The first reason is that the third petitioner is alleged to have supplied the drug to accused Nos.1 and 2. Secondly, the third accused was arrested only on 08.12.2021 while the accused/petitioners 1 and 2 are in custody from 28.09.2021. The fact that no earlier case has been registered against accused Nos.1 and 2 compels me to take the view at the risk of the offences being repeated, if the petitioners are released on bail, is not established at this point of time.

6. In the result, the bail application is allowed in respect of petitioners 1 and 2. It is directed that petitioners 1 and 2 shall be released on bail, subject to the following conditions:-

(i) Petitioners shall execute 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) Petitioners shall appear before the investigating officer

as in Crime No.41/2021 of Excise Range Office, Thrissur at 11:00 AM on every Saturday until filing of final report in Crime No.41/2021 of Excise Range Office, Thrissur;

(iii) Petitioners shall not attempt to interfere with the investigation, influence or intimidate any witness in Crime No.41/2021 of Excise Range Office, Thrissur;

(iv) Petitioners shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the

Investigating officer in Crime No.41/2021 of Excise Range Office, Thrissur may file an application before the jurisdictional Court for cancellation of bail. Bail application so far as the third petitioner stand dismissed. Sd/- GOPINATH P. JUDGE AJ APPENDIX OF BAIL APPL. 485/2022 PETITIONER ANNEXURES Annexure A1 A TRUE COPY OF THE REMAND REPORT SUBMITTED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II THRISSUR BY THE EXCISE INSPECTOR, EXCISE RANGE OFFICE, THRISSUR DATED 28.09.2021 Annexure A2 A TRUE COPY OF THE REMAND REPORT DATED 8.12.2021 FILED BY THE EXCISE CIRCLE INSPECTOR BEFORE THRISSUR DISTRICT AND SESSIONS COURT Annexure A3 A CERTIFIED COPY OF THE ORDER DATED 21.12.2021 IN CRL.M.P. NO.3164/2021 AND CRL.M.P.NO.2541/2021 ON THE FILES OF 1ST ADDITIONAL SESSIONS COURT THRISSUR Annexure A4 A CERTIFIED COPY OF THE ORDER DATED 7.1.2022 IN CRL.M.P.NO.3358/2021 ON THE FILES OF 1ST ADDITIONAL SESSIONS COURT THRISSUR

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