

Akbar, vs State of Kerala,

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Court : Kerala

Decided On : Mar-10-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./573/2022

Appellant : AKBAR,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
THURSDAY, THE 10TH DAY OF MARCH 2022 / 19TH PHALGUNA,
1943 CRIME NO.468 OF 2021 OF MANJERI POLICE STATION,
MALAPPURAM DISTRICT PETITIONER/ACCUSED: AKBAR, AGED 25
YEARS, S/O.MOHAMMED, MUNDAKKOTTU CHALIL (H),
CHEMRAKKATTOOR, AREEKODE POST, MALAPPURAM DISTRICT-
673 639. BY ADVS. JOHN TONY AKKARA NABIL KHADER ABDUL
SHUKOOR MUNDAMBRA RAFNA RAZAK RESPONDENT/STATE &
COMPLAINANT: 1 STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,
COCHIN-682 031. 2 THE S H O OF POLICE, MANJERI, MALAPPURAM

DISTRICT-676 121. BY SRI. M.C. ASHI (PP) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for regular bail.

2. The petitioner is the sloe accused in Crime No.468 of

2021 of Manjeri Police Station, Malappuram District, alleging commission of offences under Section 22(C) of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as NDPS Act), which is now pending as S.C.No.1336 of 2021 on the file of the NDPS Special Court, Manjeri. Though the crime was registered originally for an offence punishable under under Section 22(C) of the NDPS Act, following the receipt of a report from the Forensic Science Laboratory which shows that the contraband seized from the petitioner is not MDMA, but is methamphetamine, the petitioner is now alleged to have committed an offence punishable under Section 22(B) of the NDPS Act.

3. The learned counsel for the petitioner would submit

that the petitioner has been in custody for 170 days, having been arrested on 20.09.2021. It is submitted that a final report has already been filed the matter and since the rigour of Section 37 does not apply, the petitioner may be directed to be released on bail considering his long incarceration.

4. Heard the learned Public Prosecutor also. The learned Public Prosecutor confirms that a final report has been filed the matter and also that the Forensic Science Laboratory report confirms that the material seized from the petitioner is methamphetamine and not MDMA.

5. Having regard to the facts and circumstances of the

case, considering the fact that the petitioner has been in custody for 170 days, I am of the opinion that the petitioner can be granted bail subject to conditions.

Since the final report has been filed in the matter, continued detention of the petitioner is not necessary for the purpose of any investigation.

6. In the result, this bail application is allowed and it is directed that the petitioner shall be released on bail subject to the following conditions:

(1) The petitioner shall execute bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties for the like sum to the satisfaction of the Jurisdictional Court;

(2) Petitioner shall report before the investigating officer in Crime No.468 of 2021 of Manjeri Police Station, Malappuram District, on every Saturday at 11.00AM until further orders;

(3) The petitioner shall not attempt to interfere with the investigation or to influence or intimidate any witness in Crime No.468 of 2021 of Manjeri Police Station, Malappuram District;

(4) The petitioner shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the investigating officer in Crime No.468 of 2021 of Manjeri Police Station, Malappuram District, may file an application before the Jurisdictional Court for cancellation of bail. Sd/- GOPINATH P. JUDGE DK

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