

Abdul Rasheed, vs State of Kerala,

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Court : Kerala Orders

Decided On : Jan-27-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./8860/2021

Appellant : Abdul Rasheed,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
THURSDAY, THE 27TH DAY OF JANUARY 2022 / 7TH MAGHA, 1943
BAIL APPL. NO. 8860 OF 2021 CRIME NO.1616/2021 OF
KUNNAMKULAM POLICE STATION, THRISSUR DISTRICT NAME
AND ADDRESS OF THE PETITIONER/ACCUSED NO.1: ABDUL
RASHEED, AGED 39 YEARS S/O ALIHAJI, KOKKARATH VALAPPIL
HOUSE, KADAVALLUR DESPOM, KUNNAMKULAM, THRISSUR
DISTRICT BY ADVS. T.P.SAJID K.P.MOHAMED SHAFI SHIFA
LATHEEF NAME AND ADDRESS OF THE RESPONDENT/STATE: 1
STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. 2

THE STATION HOUSE OFFICER, KUNNAMKULAM POLICE STATION,
THRISSUR DISTRICT. SMT. SEETHA .S. (SR.PP) THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 27.01.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

GOPINATH.P, J -----

----- Dated this the 27th day of
January, 2022

ORDER

Petitioner is the accused in Crime No.1616/2021 of Kuyyannamkulam Police Station, Thrissur District alleging commission of offences under Section 27 of Arms Act, Section 55(1) of Kerala Abkari Act, Section 118(i) of K.P.Act and Sections 22(b),22(c),20(b) (ii)B and 29 of the NDPS Act.

2. The allegation against the petitioner is that on 06.08.2021,

the petitioner was found in possession of 3.1687 Kg of ganja, 5.2 grams of MDMA, 25.500 litres of Indian Made Foreign Liquor, 450 small packets of Hans, two swords and one knife. On the subsequent day, the accused Nos.2 and 3 were arrested having in their possession 22.12 grmas of MDMA and 15.55 grams of ganja. The allegation against the petitioner and the other accused is that they are drug dealers and peddlers in the area from they were arrested.

3. Learned counsel for the petitioner would submit that the drugs recovered from the possession of the petitioner is admittedly not in commercial quantity and therefore, the rigour of Section 37 may not

be applied for petitioner/1st accused. It is submitted that the petitioner has been arrested on 06.08.2021 and has completed 174 days in custody. It is submitted that the custody of the petitioner is no longer required for the purposes of any investigation and therefore, the petitioner is entitled to be released on bail.

4. Learned Public Prosecutor vehemently opposes the grant of

bail. It is submitted that the recovery from the petitioner and accused Nos. 2 and 3 cannot be treated separately for the purposes of determining whether the drugs in their possession were commercial quantity or not. It is submitted that there is clear evidence to show that the petitioner and the other accused in the case were part of one

gang, who are dealing with drugs in their area. It is submitted that there are two antecedents reported against the petitioner as Crime Nos.1615/2021 and 1617/2021, both of Kunnankulam Police Station where again the petitioner is accused of offences against the NDPS Act.

5. Taking into consideration the submissions of the learned

Public Prosecutor, I am of the opinion that for the purposes of Section 37 of the NDPS Act, the quantities of drugs recovered from the petitioner and accused Nos.2 and 3 cannot be treated separately to determine whether the drugs were in commercial quantity or not. That apart, there are two other earlier cases registered against the

petitioner where similar offences are alleged against him. The petitioner is therefore not entitled to bail going by the provisions of Section 37 of the NDPS Act as there are no reasonable grounds to believe that he is not guilty of the offences alleged against him.

6. In the result, this bail application will stand dismissed. Sd/-GOPINATH.P
JUDGE Isn

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