

Aneesh vs State of Kerala

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Court : Kerala Orders

Decided On : Nov-30-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./8814/2022

Appellant : Aneesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 30TH DAY OF NOVEMBER 2022 / 9TH
AGRAHAYANA, BAIL APPL. NO. 8814 OF 2022 AGAINST THE
ORDER/JUDGMENTCRMC 1795/2022 OF DISTRICT COURT &
SESSIONS COURT,KOLLAM CRIME NO.684/2022 OF PARIPPALLY
POLICESTATION, KOLLAM PETITIONER/ACCUSED: ANEESH,AGED
27 YEARS S/O. PRASANNA, PRASANNA BHAVAN, PUNNEKULAM,
POOTHAKKULAM VILLAGE, KOLLAM , PIN - 691302 BY ADVS. BIJU
.C. ABRAHAM THOMAS C.ABRAHAM

RESPONDENT/STATE: STATE OF KERALA REPRESENTED PUBLIC
PROCECUTOR, HIGH COURT OF KERALA, KOCHIN, PIN - 682031 OTHER

PRESENT: PP - M.C.ASHI THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 30.11.2022, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING: BA No.8814 of 2022 2

VIJU ABRAHAM, J.

..... B.A. No.8814 of 2022
..... Dated this the 30th day of November,
2022

ORDER

This is an application for regular bail.

2. The petitioner is arrayed as accused No. 3 in Crime No. 684

of 2022 of Parippally Police Station, Kollam District. The offence alleged against
the petitioner is punishable under Sections 22 (c) and 29 of the Narcotic Drugs
and Psychotropic Substances Act, 1985.

3. The prosecution case as stated in the bail application is that

on 20/08/2022 at 13.00 hours, acting on a tip off, when the Sub- Inspector of
police and his party conducted search of the house of accused no.1 situated at
Kottakkeram Cheri, accused no.1 was found in possession of 30.340 grams of
MDMA and accused Nos. 2 to 4 were found in possession of 1.01, 1.03 and 1.17
grams of MDMA respectively for the purpose of sale. Thus the accused have
committed the above offence.

4. The petitioner is innocent of the allegations levelled against

him. The petitioner has not committed the above offence as alleged. The petitioner
has no complicity in the above crime. The true facts of the case is that the
petitioner who had met with an accident on BA No.8814 of 2022 3

Thiruvananthapuram and later the treatment was continued at Medical College
Hospital at Parippally. On the alleged day of occurrence, the petitioner was on his

way after a routine checkup along with his friend Rohin who was a pillion rider. While they were on their way to their friend's house, they went to the house of 1st accused to borrow the loaned amount by his friend. Meanwhile, the police officials came there forcefully took them to the police station. Petitioner was arrested on 20.08.2022.

5. Learned Public Prosecutor seriously opposed the application

for bail mainly contending that commercial quantity of MDMA was seized from the possession of accused Nos. 1 to 4. While they were apprehended, all of them were having possession of contraband. The specific contention of the petitioner is that he went to the house of the 1st accused along with his friend Rohin, to borrow the loaned amount and he was apprehended. In fact portion of the alleged contraband was also seized from the possession of the petitioner. The investigation is only at the initial stage. Even though the petitioner has a case that he had gone there only to receive the loaned amount, the call records reveal that the petitioner and the 1st accused were in continuous contact with each other even on the day of the alleged commission of the crime, and therefore, the contention of the

BA No.8814 of 2022 4

petitioner that he did not have any close acquaintance with the 1st accused and went to his house for another purpose cannot be prima facie accepted. The learned Public Prosecutor also submitted that in the earlier bail application, the petitioner had a totally different story, that he along with his friend Rohin was travelling in a motorcycle, and when the vehicle reached the spot of the incident, the friend told him that he will come back soon and directed the petitioner to stay there and at this point of time, the petitioner was apprehended by the police. Though the petitioner moved the Court of Sessions twice, the same was rejected by Annexures A2 and A3 order and this court has also considered the bail application of the petitioner and rejected the same as per Annexure A4 order.

6. Admittedly, the commercial quantity of contraband is involved

in the present case. Petitioner also was in possession of a portion of the contraband. The investigation revealed that the petitioner has close contact with the 1st accused and they had a series of telephonic conversations. The investigation is going on, and the petitioner was apprehended along with accused Nos. 1, 2, and 6. Since the contraband involved is of commercial quantity, the rigor of Section 37 of the NDPS Act will definitely come into play, and for the release of the petitioner on bail, the twin conditions provided in the said Section are to be satisfied. I am of the prima facie view that the

BA No.8814 of 2022 5 petitioner could not substantiate that the rigor under Section 37 of the NDPS Act will not apply in the facts and circumstances of this case. Therefore, the petitioner is not entitled to bail at this stage and the bail application is accordingly dismissed. Sd/- VIJU ABRAHAM JUDGE cks

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