

Ajmal vs State of Kerala

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Court : Kerala Orders

Decided On : May-24-2021

Judge : Honourable Mr. Justice B.Sudheendra Kumar

Appeal No. : Bail Appl./2539/2021

Appellant : AJMAL

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR MONDAY, THE 24TH DAY OF MAY 2021 / 3RD JYAISHTA, 1943 BAIL APPL. NO. 2539 OF 2021 CRIME NO.27/2021 OF ELAMAKKARA POLICE STATION, Ernakulam PETITIONER/S: 1 AJMAL AGED 21 YEARS PUTHUVALAPPIL HOUSE, VELIYAMKODE, PONNANI, MALAPPURAM MALAPPURAM, PIN - 679577 2 ANAS AGED 25 YEARS KARUTHAPUNNALI HOUSE, PONNANI, MALAPPURAM MALAPPURAM, PIN - 679577 BY ADV ARUN ASHOK RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 BY ADV SR. PUBLIC PROSECUTOR

SMT.M.K.PUSHPALATHA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24.05.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

The petitioners are accused in Crime No.27/2021 of Elamakkara Police Station registered for the offences punishable under

Sections 22(c), 28 and 29 of the NDPS Act.

Edappally in violation of the provisions of the NDPS Act.

3. The petitioners were arrested from the spot and ever since they have been in custody.

4. Heard.

5. The learned Senior Public Prosecutor -3- has opposed the application.

6. The learned counsel for the petitioners has submitted that since the quantity involved in this case is only 10.38

gm, which is just above the intermediate quantity, the petitioners are entitled to be granted bail notwithstanding the opposition by the learned Senior Public Prosecutor. It has been further argued by the learned counsel for the petitioners that since no recovery was effected from the person of the second petitioner, the second petitioner is entitled to be granted bail on that ground also.

7. The prosecution case is that the

seizure in this case was effected while the petitioners were traveling in a scooter - 4- bearing registration No.KL-46/U 1158 with the second petitioner as the pillion rider and the first petitioner as the driver. The prosecution case would further show that the contraband was seized from the possession of the first petitioner. As per the prosecution case, both the petitioners were

found together in a bike at the

involved in this case is 10.38 gm, which is no doubt a commercial quantity. Therefore, this Court will not be justified in granting bail to the petitioners at this stage -5- construing the quantity as intermediate quantity as submitted by the learned counsel merely because the quantity involved in this case exceeded only by 0.38 gm over and above the intermediate quantity. In view of the above, the argument advanced by the learned counsel for the petitioners in this regard cannot be accepted. It appears that there are materials prima facie connecting the petitioners with

the commission of the offence.

-6- materials to connect the petitioners prima facie with the offences alleged. In view of the above, this application lacks merits. Accordingly, this application stands dismissed. Sd/- B. SUDHEENDRA KUMAR, JUDGE STK

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