

Akshay N.J., vs Excise Inspector,

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SooperKanoon Citation : sooperkanoon.com/1663610

Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./6227/2021

Appellant : Akshay N.J.,

Respondent : Excise Inspector,

Judgement :

BAIL APPL. NO. 6227 OF 2021 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. FRIDAY,
THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 BAIL APPL.
NO. 6227 OF 2021 AGAINST THE ORDER/JUDGMENT IN CRMP
2701/2020 OF DISTRICT & SESSIONS COURT, ALAPPUZHA,
ALAPPUZHA (CRIME NO.20/2020 OF EXCISE RANGE OFFICE,
KUTHIYATHODE DISTRICT)

PETITIONER/ACCUSED NO.2 AKSHAY N.J., AGED 19 YEARS S/O.
JANAME JAYAN, NJAREKATTU HOUSE, EDAKOCHI P.O., KOCHI-
682010. BY ADVS. K.S.SREERAJ SYAM K.P. RESPONDENT/STATE 1

EXCISE INSPECTOR, EXCISE RANGE OFFICE, KUTHIYATHODE. 2
STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031. OTHER PRESENT:
SRI.MANU.P.G- SR.PP THIS BAIL APPLICATION HAVING COME UP
FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: BAIL APPL. NO. 6227 OF 2021 2

ORDER

This successive application for bail is filed by the petitioner who is the second accused in Crime No.20/2020 of Kuthiyathode Excise Range registered for the offences punishable under sections 22(b), 22 (C), 20(b)(ii) A, 25 and 29 of the NDPS Act.

2. The prosecution allegation is that on 20.10.2020 some

youngsters were found in possession of narcotic drugs near a waiting shed at Keltron Ferry in Arur, and they were intercepted and seized 170 mg of LSD stamp, 630 mg of MDMA, 2.98 gm of hashish oil and 14 gms of ganja. All the accused were arrested with the contraband and their motor cycles.

3. The learned counsel for the petitioner would submits that the case was actually manipulated by the excise officials and this petitioner

aged 19 years is undergoing unnecessary incarceration since 20.10.2020. The petitioner is suffering from some kind illness and he is not getting proper treatment from the jail. Hence, this application.

4. The learned Public Prosecutor has submitted that commercial quantity of drugs were seized from the possession of the petitioner and the other accused. Now the investigation is over and charge sheet has BAIL APPL. NO. 6227 OF 2021 3 been submitted before the court below.

5. Heard both sides.

6. It is true that this petitioner is aged only 19 years. This bail

application is moved by the petitioner highlighting his illness. But except Annexure A5 an O.P ticket dated 31.7.2021, no document is available to show that the petitioner is suffering from hemorrhoid and he had to continue treatment for the same. Now the case stands posted for evidence. Granting of bail for treatment can be considered on the basis of medical certificates. Here as such no such documents are available.

7. The learned Public Prosecutor has submitted that if he is having any illness proper treatment will be provided to him and , on medical ground this petitioner is not entitled for bail. As the request for bail is only on medical ground nothing has been argued by the learned counsel on merits regarding the case. Moreover this Court while

considering his bail application on the earlier occasion observed that the petitioner is not entitled to be released on bail as he has not satisfied the twin conditions required under Section 37 of the NDPS Act as commercial quantity of narcotic drugs is involved in this case.

8. Since the learned counsel for the petitioner has argued that he is not provided with adequate treatment from the jail the Superintendent of the District Jail, Alappuzha is directed to file a report

BAIL APPL. NO. 6227 OF 2021 4 regarding the health condition of this petitioner before the trial court within two weeks from today. It is made clear that if the petitioner is suffering from any kind of illness and he is not provided with proper treatment, the learned Sessions Judge (trial Judge) shall give appropriate directions to the jail authorities to ensure his health. The petitioner is also at liberty to move again for bail before this court, if sufficient and proper treatment is not provided to him. Hence, this application is dismissed. The learned Sessions Judge shall take all endeavor to dispose of the case at the earliest as the accused including the petitioner are undergoing incarceration for about one year. Sd/- SHIRCY V JUDGE smm