

**(2024) 09 KL CK 0031**

**High Court Of Kerala**

**Case No:** Bail Application No.7406 Of 2024

Muhammed Ansib

APPELLANT

Vs

State Of Kerala

RESPONDENT

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**Date of Decision:** Sept. 23, 2024

**Acts Referred:**

- Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 483
- Narcotic Drugs and Psychotropic Substances Act, 1985 - Section 20(b)(ii)(A), 22(b), 29

**Hon'ble Judges:** C.S.Dias, J

**Bench:** Single Bench

**Advocate:** P.Mohamed Sabah, Libin Stanley, Saipooja, Sadik Ismayil, R.Gayathri, M.Mahin Hamza, Alwin Joseph, Benson Ambrose, Pushpalatha. M.K

**Final Decision:** Allowed

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### **Judgement**

C.S.Dias, J

1. The application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, by the second accused in Crime No. 1397/2024 of Thodupuzha Police Station, Idukki, which is registered against the accused for allegedly committing the offences punishable under Sections 22(b), 20(b)(ii)(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, the Act). The petitioner was arrested and remanded to judicial custody on 24.08.2024.

2. The gist of the prosecution case is that: on 24.08.2024, at around 17:30 hours, the Detecting Officer and party seized 1.19 grams of MDMA and 2.17 grams of hashish oil from the first accused, while the accused 1 to 3 were in the parking ground of the Pearl Bar near the KSRTC bus stand at Thodupuzha. Thus, the accused have committed the above

offences.

3. Heard; Sri. P. Mohamed Sabah, the learned counsel appearing for the petitioner and Smt. Pushpalatha. M.K., the learned Senior Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusations levelled against him. He has been falsely implicated in the crime. In any given case, the petitioner has been in judicial custody since 24.08.2024, the contraband that was allegedly seized from the petitioner is of an intermediate quantity, the investigation in the case is practically complete, and the recovery has been effected. Therefore, the petitioner's further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the application. She submitted that the investigation in the case is in progress. She also submitted that if the petitioner is let off on bail, there is every likelihood of him committing a similar offence. Hence, the application may be dismissed. Nonetheless, she did not dispute the fact that the contraband involved in the case is of an intermediate quantity.

6. After bestowing my anxious consideration to the facts, the rival submissions made across the Bar, and the materials placed on record, especially on considering the fact that the contraband allegedly seized from the petitioner is of an intermediate quantity, that the petitioner has been in judicial custody since 24.08.2024, that the investigation in the case is complete, and recovery has been effected, I am of the view that the petitioner's further detention is unnecessary. Hence, I hold that the petitioner is entitled to be released on bail.

In the result, the application is allowed, by directing the petitioner to be released on bail on him executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following conditions:

- (i) The petitioner shall appear before the Investigating Officer as and when required;
- (ii) The petitioner shall not directly or indirectly make any inducement, threat or procure to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any Police Officer or tamper with the evidence in any manner, whatsoever;
- (iii) The petitioner shall not commit any offence while he is on bail;
- (iv) The petitioner shall surrender his passport, if any, before the court below at the time of execution of the bond. If he has no passport, he shall file an affidavit to the effect before the court below on the date of execution of the bond;
- (v) In case of violation of any of the conditions mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass

orders on the same, in accordance with law;

(vi) Applications for deletion/modification of the bail conditions shall be filed and entertained before the court below;

(vii) Needless to mention, it would be well within the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* and another [2020 (1) KHC 663].