

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

MONDAY, THE 22<sup>ND</sup> DAY OF JANUARY 2024 / 2ND MAGHA, 1945

BAIL APPL. NO. 231 OF 2024

CRIME NO.1140/2023 OF KANNANALLOOR POLICE STATION, KOLLAM

CRMC 2431/2023 OF DISTRICT COURT & SESSIONS COURT, KOLLAM

PETITIONER/ACCUSED NO.1:

GOKUL R

AGED 26 YEARS

S/O RATNAKARAN, KOCHUTHUNDIL, VADAKKATHIL,  
KUZHIMATHIKAD P.O. KOLLAM, PIN - 691509

BY ADV C.S.SUMESH

RESPONDENTS/STATE:

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM., PIN - 682031
- 2 THE STATION HOUSE OFFICER  
KANNANALLOOR POLICE STATION KANNANALLOOR,  
KOLLAM ., PIN - 691576

OTHER PRESENT:

SR PP SMT SEETHA S

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
22.01.2024, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**ORDER**

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the 1<sup>st</sup> accused in Crime No.1140/2023 of the Kannanalloor Police Station, Kollam, registered against the accused (four in number) for allegedly committing the offences punishable under Sections 20(b)(ii)(A), 22(c), 28 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner was arrested on 12.09.2023.

2. The gist of the prosecution, is that: in pursuance to a conspiracy that was hatched between the accused Nos.1 to 4 to purchase and sell MDMA and ganja, the accused co-jointly were found in possession of 19 grams of MDMA, which was stored in the outhouse of the second accused and 4.00 grams of ganja was also seized from the possession of the first accused. Thus, the accused have committed the above offences.

3. Heard; Sri. C.S.Sumesh, the learned counsel appearing for the petitioner and Smt.Seetha S., the learned Senior Public Prosecutor appearing for the respondent.

4. The learned counsel appearing for the petitioner submitted that the petitioner is totally innocent of the accusations leveled against him. He has been falsely implicated in the crime. The petitioner has been languishing in jail since 12.09.2023. The investigation in the case is practically complete. The petitioners has reliably learnt that the contraband article allegedly seized from the first accused is 'methamphetamine' and not 'MDMA'. Therefore, the contraband is only intermediate quantity. Hence, the petitioner is entitled to be released on bail.

5. The learned Public Prosecutor opposed the application. However, she conceded to the fact that the petitioner was arrested on 12.09.2023 and the investigation in the case is complete. She also handed over the chemical analysis report dated 20.12.2023 issued by the State Forensic Science Laboratory, Thiruvananthapuram, which shows that the contraband article is 'methamphetamine' and not 'MDMA'.

6. The prosecution was lodged against the accused principally on the allegation that the accused were found in possession of 19 grams of 'MDMA', which is a commercial quantity. It is on the basis

of the said accusation, that the petitioner was arrested on 12.09.2023 and was remanded to judicial custody. It has now come on record, as per the chemical analysis report dated 20.12.2023, the contraband article is 'methamphetamine' and not 'MDMA'. Therefore, the contraband is only intermediate quantity.

7. After bestowing my anxious consideration to the materials placed on record, particularly to the chemical analysis report, that the contraband is Methamphetamine and is of intermediate quantity, that the petitioner is in custody since 12.09.2023, that the petitioner has no criminal antecedents and that the investigation is practically complete, I am of the view that the petitioner is entitled to be released on bail, subject to stringent conditions.

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 on every alternate Saturdays between 9 a.m. and

11 a.m for a period of one month or till the final report is laid, whichever is earlier and he shall also 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 moved and entertained by 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 Anr.*** [2020 (1) KHC 663.

Sd/-  
**C.S.DIAS, JUDGE**

AS