
(2022) 01 KL CK 0060
In the High Court Of Kerala
Case No : Bail Application No. 8519 Of 2021

Rajeena.K

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 11-01-2022

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 37

Citation : (2022) 01 KL CK 0060

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Advocate : Nireesh Mathew, C.K. Suresh

Final Decision : Disposed Of

Judgement

Gopinath P., J

1. The petitioner is the 2nd accused in NDPS Crime No.32/2021 of Parappanangadi Excise Range Office, Malappuram District. On 16-08-2021 the

1st accused was found in possession of 3.38 grams of MDMA while transporting the same in an autorickshaw bearing Registration No.KL-11/BK

7498 and based on the information given by the 1st accused a further quantity of 22.85 grams of MDMA was seized from the flat of the 2nd accused.

2. The learned counsel for the petitioner vehemently submits that the alleged seizure from the possession of the petitioner/2nd accused is illegal and

in violation of the procedure prescribed under the Narcotic Drugs and Psychotropic Substances Act, 1985. It is submitted that it is settled law that the

NDPS Act being a draconian law the violation of the mandatory procedure will invalidate the prosecution. It is submitted that the petitioner is a

woman aged 38 years and her continued detention is not necessary in the facts and circumstances in the case. It is also submitted that the petitioner

has been in custody from 16-08-2021.

3. The learned Public Prosecutor on instructions would submit that a commercial quantity of MDMA was seized from the possession of the petitioner

from an apartment being used and occupied by her. It is submitted that the submission of the learned counsel for the petitioner that there has been a

violation of procedure in the matter of seizure is completely incorrect and that the correct procedure was followed in the matter. It is submitted that

MDMA is a synthetic drug and the provisions of Section 37 of the NDPS Act mandate that bail can be granted only if the court comes to a conclusion

that prima facie, no case established against the petitioner.

In the facts and circumstances of the case and after hearing the learned counsel for the petitioner and the learned Public Prosecutor, I do not think

that this is case where I can make a finding even prima facie that the petitioner may be innocent in the matter. Therefore, in terms of the mandate of

Section 37, this bail application can only be dismissed. It is accordingly dismissed.