

(2022) 07 KL CK 0196
In the High Court Of Kerala
Case No : Bail Application No.1555 Of 2022

Rajeev

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 21-07-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)B, 22(c),
29, 37

Citation : (2022) 07 KL CK 0196

Hon'ble Judges : K. Babu, J

Bench : Single Bench

Advocate : Sruthy N. Bhat, P.M.Rafiq, M.Revikrishnan, Ajeesh K.Sasi, Mitha
Sudhindran, Rahul Sunil, Sruthy K.K, C.K.Suresh

Final Decision : Allowed

Judgement

K.Babu, J

1. This is an application filed under Section 439 of the Code of Criminal Procedure.
2. The petitioner is the accused in Crime No.140/2022 of Chavakkad Police Station registered alleging offences punishable under Section 20(b)(ii)B, 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
3. The above crime was registered against the petitioner and another alleging that they were found in possession of 30.59 grams of MDMA and 1.5Kg of ganja.
4. The petitioner was arrested on 02.02.2022 and has been in judicial custody since then.
5. Heard the learned counsel for the petitioner and the learned Public Prosecutor.
6. The learned counsel for the petitioner submitted that what was recovered from the possession of the petitioner and another was not MDMA but Methamphetamine.

7. The learned counsel for the petitioner submitted that the contraband allegedly seized from the possession of the petitioner would not come under the definition 'commercial quantity' as provided in the NDPS Act and therefore the rigour under Section 37 of the Act would not come into play.

8. Sri.C.K.Suresh, learned Senior Public Prosecutor produced a report of the Joint Director, Regional Forensic Science Laboratory, Thrissur wherein it is recorded that on analysis in the Forensic Science Laboratory, it was found that the contraband seized was Methamphetamine.

9. As per the relevant notification, the contraband seized would come under the category of intermediate quantity and therefore, the rigour under Section 37 of the NDPS Act will not come into play. The petitioner has been in judicial custody since 02.02.2022. The prosecution has not canvassed any material for the further detention of the petitioner. Therefore, the Bail Application is allowed as follows:

(a) The petitioner shall be released on bail on his executing bond for Rs.2,00,000/- (Rupees Two Lakh Only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court concerned.

(b) The petitioner shall fully co-operate with the investigation.

(c) The petitioner shall appear before the Investigating Officer between 10 A.M. and 11 A.M. on every Saturday till the final report is filed.

(d) The petitioner shall not commit any offence of like nature while on bail.

(e) The petitioner shall not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or any other way try to tamper with the evidence or influence any witnesses.

(f) The petitioner shall not leave the State of Kerala without the permission of the jurisdictional Court.