

SESSIONS DIVISION, KOLLAM**IN THE PRINCIPAL SESSIONS COURT**

Present: Smt. M.B. Snehalatha, Prl. Sessions Judge, Kollam

Monday the 21st day of November, 2022/30th Karthika, 1944

Crl. M.C. No. 2308/2022 in**Crime. No. 684/2022 of Parippally Police Station**

Petitioner : Abhilash @ Vishnu, Aged. 20 years, S/o. Baby, Residing at Om Sreehari, Kottakaram Colony, Neduvila, Parippally, Kollam. (A1)

By Adv. B. Dipu Sach Dev

Respondent : State of Kerala represented by the Sub Inspector of Police, Parippally Police Station through the Public Prosecutor, Kollam.

This petition is filed u/s 439 of Cr. P.C having come up for consideration on 21-11-2022 on the same day the court passed the following.

ORDER

Application under Section 439 Cr.P.C. seeking regular bail.

2. Petitioner is A1 in Crime No. 684/2022 of Parippally Police Station, registered for the offences punishable under Sections 22 (c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985.

3. Prosecution case is that on 20.08.2022 at 13 hours, acting on a tip-off, when the Sub Inspector of Police and his party

conducted search of the house of A1 situated at Kottakkeram Cheri, A1 was found in possession of 30.340 grams of MDMA and A2 to A4 were found in possession of 1.01, 1.03 and 1.17 grams of MDMA respectively for the purpose of sale. Accused thereby committed the aforementioned offences.

4. Petitioner/A1 was arrested on 20.08.2022 along with other accused and he is in judicial custody since then.

5. Petitioner/A1 would contend that there are reasonable grounds to believe that he has not committed the offence as alleged. A1 was falsely implicated. After the demise of the father of A1, he had asked his uncle Mr. Rajesh Parippally to sell the property of A1. A portion of the property was sold off to the proprietor of RR Electricals for a consideration of Rs. 3 crore and the said amount was deposited in the account of his uncle Rajesh Parippally. A1 demanded his uncle Rajesh to return the said amount. Rajesh Parippally who is a local politician of the ruling party influenced the police and foisted a false case against A1. The house from wherein the contraband was recovered was in the possession of Mr. Rajesh Parippally ever since the death of the parents of A1. As per the prosecution case, the MDMA was recovered from a table kept in the house and no drug was recovered from the body of the accused. Even as per the prosecution case, the drug was procured by A5 and

the bag belongs to him. The blood test of A1 shed light on the innocence of A1. A1 is an engineering student and he may be released on bail.

6. Bail application was strenuously opposed by the learned Public Prosecutor by reiterating the prosecution allegations. In the factual report filed by the investigating officer, it has been stated that a detailed probe has to be conducted with regard to the source of MDMA seized from the accused. Further, if the petitioner/A1 is released on bail, he may tamper with the evidence by intimidating and influencing the witnesses and there is also possibility of absconding and further he may again indulge in similar offence which is lethal to the society.

7. Heard the learned counsel for the petitioner/A1 and the learned Public Prosecutor.

8. Perused the factual report filed by the investigating officer.

9. Prima-facie, there are sufficient materials which would reveal the seizure of commercial quantity of MDMA from the possession of A1 to A4. The records produced by the prosecution would reveal that all the four accused were arrested from the residence of A1. The said fact prima facie supports the case of the

prosecution that A1 to A4 are drug peddlers engaged in the sale of MDMA.

10. Section 37 of the NDPS Act 1985 stipulates that persons accused of offence under the Act involving commercial quantity shall not be released on bail unless court is satisfied that there are reasonable grounds for believing that accused is not guilty and is not likely to commit any offence while on bail.

11. The exercise of power to grant bail is not only subject to the limitations contained in Section 439 Cr.P.C., but is also subject to the limitations placed under Section 37 of NDPS Act. Considering the seriousness of offence punishable under the NDPS Act and in order to control the menace of drug trafficking, stringent parameters for grant of bail under the NDPS Act has been prescribed.

12. Given the seriousness of the offences punishable under the NDPS Act and in order to curb the menace of drug trafficking, stringent parameters for grant of bail under the NDPS Act have been prescribed. The court must be conscious about the mischief that is sought to be curbed by the Act. The court ought to have been satisfied on the basis of the reasonable ground discernible from the facts and the circumstances that the accused is not guilty of offences levelled against him. The court must also need to be satisfied

that the person so released will not commit the offence while being on bail.

13. Liberal approach in the matter of bail under NDPS Act is uncalled for. I find merit in the argument advanced by the learned Public Prosecutor that an in-depth probe is necessitated to find out the source of the commercial quantity of MDMA seized from the accused. Having regard to the nature and gravity of the offence alleged against the petitioner/A1, the deleterious and deadly impact of the offence in the society, the severity of punishment in the event of conviction and the possibility of repeating similar offence by him, if enlarged on bail, I am not inclined to grant bail to the petitioner/A1 at this stage of investigation.

Hence, this petition for bail stands dismissed.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open Court on this the 21st day of November, 2022.)

Sd/-
M. B. Snehalatha,
Sessions Judge.

//True Copy//

Sheristadar

Copy to:- The Sub Inspector of Police, Parippally Police Station.

Typed by : Vineetha. R
Compared by : Ajitha. R