

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI**

**FRIDAY, THE 29TH DAY OF DECEMBER 2017/8TH POUSHA, 1939**

**Bail Appl..No. 8575 of 2017 ()**  
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**CRIME NO. 1052/2017 OF ELOOR POLICE STATION , ERNAKULAM.**  
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**PETITIONER(S)/ACCUSED:**  
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**PRABHU R,  
AGED 32 YEARS, KANDATHIL HOUSE, ATTAPALLAM P.O., KUMILY,  
IDUKKI-685509.**

**BY ADVS.SRI.RAHUL SASI  
SMT.NEETHU PREM**

**RESPONDENT(S)/STATE/COMPLAINANT:**  
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**STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNANKULAM-682031.**

**BY PUBLIC PROSECUTOR SMT.K.K.SHEEBA**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 29-12-2017, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**TS**

***R. NARAYANA PISHARADI, J***

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**B.A No.8575 of 2017**  
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**Dated this the 29<sup>th</sup> day of December, 2017**

**ORDER**

This application for bail is filed under Section 439 of the Code of Criminal Procedure.

2. The petitioner herein is the accused in the case registered as Crime No.1052 of 2017 of the Eloor Police Station under Section 20(b) (ii) B of the NDPS Act.

3. According to the prosecution case, on 22.09.2017, at about 17.45 hrs, while the Sub Inspector of Ernakulam Town North Police Station was conducting patrol duty, he saw the petitioner coming on a motor cycle and when the petitioner was restrained and searched, it was found that he had kept 1.100 kgs of ganja below the seat of the motor cycle. The Sub Inspector of Police seized the ganja and arrested the petitioner.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The petitioner is in judicial custody from 22.09.2017 onwards. The learned Public Prosecutor submits that final report against the petitioner was filed in the court concerned on 25.10.2017. The petitioner had moved the Sessions Court, Ernakulam for bail but the application was dismissed on the ground that he was an accused involved in a case under

Section 302 of the IPC in the year 2010. The learned counsel for the petitioner submits that the petitioner is on bail in the aforesaid case. Merely for the reason that the petitioner is an accused in a murder case registered in the year 2010, bail cannot be denied to him in the present case. The contraband article seized from the possession of the petitioner is only of intermediary quantity. At this stage, what the Court has to ensure is the presence of the petitioner during the trial of the case. In these circumstances, I find that bail can be granted to the petitioner imposing appropriate conditions to ensure his presence in the court during the trial of the case.

In the result, the petition is allowed as follows. The petitioner shall be released on bail on the following conditions.

1) The petitioner shall execute a bond for Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the Jurisdictional Court concerned.

2) One of the sureties of the petitioner shall be a person who owns immovable property in the State of Kerala. He will produce before the Court concerned original title deed relating to his property with a photocopy of the same and the original shall be returned to him by the Court after verification.

3) The petitioner shall not influence or intimidate the prosecution witnesses. He shall not make any attempt to tamper with the evidence in the case.

4) The petitioner shall surrender his passport in the Court concerned within three days of his release on bail. If he does not possess any passport, he shall file an affidavit to that effect in the Court concerned within that period.

5) The petitioner shall not leave the State of Kerala without the prior permission of the Court concerned.

6) If the petitioner violates any of the conditions of bail, it is open to the Court concerned to cancel his bail without any further orders from this Court but in accordance with law.

**Sd/-**

**R. NARAYANA PISHARADI,  
JUDGE**

*//True Copy//*

*P.A to Judge*

*AD*