

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

FRIDAY, THE 31<sup>ST</sup> DAY OF MAY 2024 / 10TH JYAISHTA, 1946

BAIL APPL. NO. 4265 OF 2024

CRIME NO.403/2024 OF Ernakulam South Police Station, Ernakulam  
AGAINST THE ORDER/JUDGMENT DATED IN CRMC NO.1331 OF 2024 OF  
DISTRICT COURT & SESSIONS COURT, ERNAKULAM

PETITIONER/S:

ASHWIN PETER  
AGED 26 YEARS  
S/O. ANTONY, PUTHENPARAMBIL HOUSE, EAST OF OLD POST  
OFFICE, KUMBALANGHI, KOCHI, ERNAKULAM DISTRICT, PIN -  
682007

BY ADVS.  
AJITH GEORGE  
ALOK RAJ  
C.S.SHAHUL HAMEED  
P.T.THAJMINA  
NITIN SUSEELAN

RESPONDENT/S:

STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,  
ERNAKULAM, PIN - 682031

SR.PP.SMT.NEEMA T.V.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
31.05.2024, 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 sole accused in Crime No.403/2024 of the Ernakulam South Police Station, Ernakulam, registered against him for allegedly committing the offence punishable under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'the Act'). The petitioner was arrested on 18.03.2024.

2. The essence of the prosecution case is that: on 18.03.2024, at around 19.50 hours, the petitioner was found in conscious possession of 2.02 grams of MDMA in a room in a lodge. The petitioner was arrested on the spot with the contraband article. Thus, the petitioner has committed the above offence.

3. Heard; Sri.Ajith George, the learned counsel appearing for the petitioner and Smt.Neema T.V., the learned Public Prosecutor.

4. The learned counsel 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 investigation in the case is complete and the final report has been laid. Moreover, the contraband involved in the case is of an intermediate quantity and the petitioner does not have any criminal antecedents. Hence, the petitioner is entitled to be released on bail. Therefore, the application may be allowed.

5. The learned Public Prosecutor opposed the application. She submitted that if the petitioner is released on bail, there is every likelihood of him committing similar offences. Nonetheless, she conceded to the fact that the final report has been laid, the petitioner does not have any criminal antecedents and the contraband involved in the case is of an intermediate quantity.

6. On an anxious consideration of the facts, the rival submissions made across the Bar and the materials placed on record, especially on considering the fact that the petitioner has been in judicial custody for the last nearly 75 days, the investigation in the case is complete and the final report has been laid, and further that the contraband involved in the case is of an intermediate quantity and the petitioner does not have any criminal antecedents, I am of the view that the petitioner's further detention is unnecessary. Hence, I hold that the petitioner is entitled to be released on bail.

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 Saturday between 9 a.m. and 11 a.m for a period of two months or till the final report is filed, whichever is earlier. 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) Application for deletion/modification of the bail conditions shall be filed and entertained before 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 another*** [2020 (1) KHC 663].

sd/-

**C.S.DIAS,JUDGE**

rkc/31.05.24

APPENDIX OF BAIL APPL. 4265/2024

PETITIONER ANNEXURES

Annexure A1	THE TRUE COPY OF FIR IN CRIME NUMBERED AS 403/2024 OF ERNAKULAM TOWN SOUTH POLICE STATION, ERNAKULAM DISTRICT
Annexure A2	THE TRUE COPY OF THE SCHEDULE AS EXTRACTED FROM THE ACT
Annexure A3	THE TRUE COPY OF THE ORDER IN CRL.M.C. 1331/2024 OF THE HON'BLE DISTRICT & SESSION COURT ERNAKULAM(VACATION COURT) DATED 13TH MAY 2024