

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Bail Appl..No. 5878 of 2015

CRIME NO. 13/2015 OF KOLAZHI EXCISE RANGE OFFICE, THRISSUR

PETITIONER(S)/ACCUSED NO.2:

**JITHESH, AGED 19 YEARS,
S/O.VIJU, THANIKKAL VEETIL, ADUPUTTY DESOM,
KUNNAMKULAM VILLAGE, THALAPPILLY TALUK.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.THOMAS J.ANAKKALLUNKAL
SRI.VIPIN NARAYAN**

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

A.HARIPRASAD, J.

B.A No.5878 of 2015

Dated this the 23rd day of September, 2015.

ORDER

Application for bail under Section 439 Cr.P.C.

2. Petitioner is the second accused in Crime No.13/2015 of Kolazhy Excise Range registered for offences punishable under Section 20(b) ii(B) of Narcotic Drugs and Psychotropic Substances Act (for short 'NDPS Act').

3. Prosecution case, in short, is that on 05-06-2015 at about 6.30 p.m., the Excise party intercepted a motor cycle on which the first and second accused were travelling. 1.246 kg and 290 grams of ganga were recovered from the possession of first and second accused respectively. Further 495 grams of ganga was seized from the motor cycle.

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

5. Learned counsel for the petitioner contended that in the absence of a charge under Section 29 of the NDPS Act, the

petitioner can be found to have possessed only a small quantity and therefore, he is entitled to be released by the learned Magistrate himself. To support this condition, a decision reported in *Muthu Kumar v. Station House Officer (2008(2) K.L.T 890)*. Considering the entire aspect, I find that bail can be granted to the petitioner with following strict conditions :

1. The petitioner shall be released on bail on executing a bond for Rs.10,000/- (Rupees ten thousand only) with two solvent sureties each for the like sum to the satisfaction of the court having jurisdiction, viz; the Special Court under the NDPS Act.
2. The sureties shall produce documents to establish their identity and solvency. The learned trial Judge need not insist on the solvency certificate, but other documents can also be perused to find out whether the sureties are solvent or not.
3. The petitioner shall appear before the Investigating Officer on all Sundays between 10.00 and 11.00 a.m until final report is filed.

4. The petitioner shall not indulge in any offence while on bail.
5. The petitioner shall not influence or intimidate the witnesses or meddle with the investigation in any manner.

If any of the above conditions is breached by the petitioner, the learned trial Judge is free to cancel bail without referring the matter to this Court.

amk

Sd/-
A.HARIPRASAD,
JUDGE.
//True copy//

P.A to Judge