IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

FRIDAY, THE 26TH DAY OF JULY 2024 / 4TH SRAVANA, 1946

BAIL APPL. NO. 5958 OF 2024

CRIME NO.917/2024 OF IRINJALAKUDA POLICE STATION, THRISSUR

PETITIONER/ACCUSED:

VIVEK
AGED 23 YEARS
S/O.RAVI, THALIYAKATTIL HOUSE, MAPRANAM, KARAKKADA DESOM, MADAYIKONAM VILLAGE, THRISSUR DISTRICT., PIN - 680712

BY ADV NIREESH MATHEW

RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, KOCHI., PIN – 682031

SR.PUBLIC PROSECUTOR SMT. NEEMA T.V.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Dated this the 26th day of July, 2024

O R D E R

The application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, BNSS), by the sole accused in Crime No.917/2024 of Irinjalakuda Police Station, Thrissur, registered against him for allegedly committing the offence punishable under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner was arrested and remanded to judicial custody on 11.07.2024.

2. The crux of the prosecution case is that: on 10.07.2024, the accused was found in conscious possession of 1.030 grams of MDMA. He was arrested at

the spot with the contraband article. Thus, the accused has committed the above offence.

3. Heard; Sri. Nireesh Mathew, the learned counsel appearing for the petitioner and Smt. Neema T.V., the learned Senior 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. In any given case, the petitioner has been in judicial custody since 11.07.2024, the petitioner has no criminal antecedents, the contraband that was allegedly seized from the accused is of an intermediate quantity, the investigation in the case is practically complete, and the recovery has been effected. Therefore, the petitioner's further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the

application. She submitted that the investigation in the case is in progress. She also submitted that if the petitioner is let off on bail, there is every likelihood of him committing similar offences. Nonetheless, she did not dispute the fact that the petitioner doesn't have any criminal antecedents and the contraband involved in the case is of an intermediate quantity.

6. After bestowing my anxious consideration to the facts, the rival submissions made across the Bar, and the materials placed on record, especially on considering the fact that the contraband allegedly seized from the accused is of an intermediate quantity, that the petitioner has no criminal antecedents, that the petitioner has been in judicial custody since 11.07.2024, that the investigation in the case is practically complete, and that the recovery has been effected, 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) Applications 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/-

rmm26/7/2024 **C.S.DIAS, JUDGE**