



2025:KER:26934

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947

BAIL APPL. NO. 4258 OF 2025

CRIME NO.1073/2024 OF Kasaragod Police Station, Kasargod

AGAINST THE ORDER/JUDGMENT DATED 18.03.2025 IN CRMC
NO.439 OF 2025 OF DISTRICT COURT & SESSIONS & MOTOR ACCIDENT
CLAIMS TRIBUNAL, KASARAGOD

PETITIONER/S:

ABDUL MUJEEB.M,
AGED 23 YEARS
,S/O.KHADEEJA, R/AT. MOOKAMAPARA HOUSE BADIADKDA,
NIRCHAL, KASARAGOD DISTRICT-671551 NOW R/AT. RENTED
QUARTERS NEAR PILAMKATTA MILL, MALLYA ROAD,
BADIADKA, KASARGOD, PIN - 671551

BY ADVS.
RESHMA E.
ANJITHA SANTHOSH
ATHEENA ANTONY

RESPONDENT/S:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF



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KERALA, PIN - 682031

2 SHO
(CRIME NO. 1073 OF 2024 OF KASARGOD POLICE STATION,
KASARAGOD DISTRICT) ,KASARGOD DISTRICT, PIN - 671121

OTHER PRESENT:

SR PP-NOUSHAD K A

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
28.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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P.V.KUNHIKRISHNAN, J

B.A. No. 4258 of 2025

Dated this the 28th day of March, 2025

O R D E R

This Bail Application is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita.

2. Petitioner is an accused in Crime No.1073/2024 of Kasaragod Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 22(b) r/w 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

3. The prosecution case is that the accused was found in possession of 3.87 gms of MDMA. The



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petitioner was arrested on 27.12.2024.

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

5. The counsel for the petitioner submitted that the petitioner is in custody from 27.12.2024. The counsel submitted that the petitioner is ready to abide any conditions, if this Court grants him bail. The Public Prosecutor opposed the bail application. But, the Public Prosecutor submitted that, as per the report received by him, no criminal antecedents are alleged against the petitioner.

6. This Court considered contentions of the petitioner and the Public Prosecutor. Admittedly, the contraband seized is intermediate quantity. Hence, the rigour under Sec.37 of the NDPS Act is not attracted. No criminal antecedents is alleged against the petitioner. The petitioner is in custody from 27.12.2024. Considering the facts and



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circumstances of this case, I think the petitioner can be released on bail on condition that if the petitioner commits similar offence in future, the investigating officer can file appropriate application for cancellation of bail before the jurisdictional court and if such an application is filed, the jurisdictional court can pass appropriate orders, even though this order is passed by this Court.

7. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in **Chidambaram. P v Directorate of Enforcement [2019 (16) SCALE 870]**, after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

8. Moreover, in **Jalaluddin Khan v. Union of India [2024 KHC 6431]**, the Hon'ble Supreme Court



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observed that:

“21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution.” (underline supplied)

9. In **Manish Sisodia v. Directorate of**



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Enforcement [2024 KHC 6426], also the Hon'ble Supreme Court observed that:

"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well - settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception"."

10. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following directions:

1. Petitioner shall be released



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on bail on 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 jurisdictional Court.

2. The petitioner shall appear
before the Investigating Officer for
interrogation as and when required. The
petitioner shall co-operate with the
investigation and shall not, directly or
indirectly make any inducement, threat or
promise to any person acquainted with the
facts of the case so as to dissuade him/her
from disclosing such facts to the Court or
to any police officer.

3. Petitioner shall not leave
India without permission of the



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jurisdictional Court.

4. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

5. The observations and findings in this order is only for the purpose of deciding this bail application. The principle laid down by this Court in ***Anzar Azeez v. State of Kerala*** [2025 SCC OnLine KER 1260] is applicable in this case also.

6. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail



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is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above conditions.

sd/-
P.V.KUNHIKRISHNAN
JUDGE

SKS