2025:KER:28651

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 3RD DAY OF APRIL 2025 / 13TH CHAITHRA, 1947

BAIL APPL. NO. 4410 OF 2025

CRIME NO.93/2024 OF ERNAKULAM EXCISE RANGE OFFICE, ERNAKULAM

AGAINST THE ORDER/JUDGMENT DATED 11.03.2025 IN CRMC NO.672 OF 2025 OF DISTRICT COURT & SESSIONS COURT, ERNAKULAM

PETITIONER/S:

VINOD
AGED 44 YEARS
S/O. CHARU, THOOVAMBARA HOUSE, CHEMMEEN
KADAVU DESOM, KODOOR P.O., PERINTHALMANNA
TALUK, MALPPURAM DISTRICT, PIN - 686504

BY ADVS.
N.L.BITTO
MITHUL T ANTO

RESPONDENT/S:

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

BY ADV.:

SR PP-NOUSHAD K A

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

BA No.4410 of 2025

Dated this the 03rd day of April, 2025

O R D E R

The petitioner is an accused in Crime No.93/2024 of Ernakulam Excise Range Office. Above case is registered against the petitioner alleging offences punishable under Sections 20(b)(ii)(c), 22(c) & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The prosecution case is that, on 26.11.2024, the 1st accused was found in possession of 4.43 gms of MDMA and 14 gms of Ganja near Thoppil Church Chappal, Pipe Line Road, Vazhakkala Village. During investigation, it is revealed that he is

doing the illegal business of the sale of narcotic drugs with the 2nd accused by name Vinod and when the house of the 2nd accused was searched, 10.595 Kgms of Ganja was seized and from the house of the 1st accused 29.189 gms of MDMA and 12.65 Kgms of Ganja were seized and thus the accused have committed the above said offences.

3. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor.

4. The counsel for the petitioner submitted that the petitioner was arrested on 21.01.2025. The counsel submitted that only intermediate quantity of Ganja is seized from the petitioner. Petitioner has absolutely no connection with the other accused. The only material available against the petitioner is the confession statement of the other accused. The counsel submitted that, that is not admissible.

5. The Public Prosecutor seriously opposed

the bail application. Public Prosecutor submitted that the final report is filed in this case. He also submitted that Section 29 of the NDPS Act is also added and the petitioner has got active role in the case.

6. Admittedly, the quantity of contraband seized is commercial quantity. Section 29 of the NDPS Act is also alleged. Section 37 of the NDPS Act is reads like this:

> **"37. Offences to be cognizable and non-bailable.—**
>
> *(1)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—*
>
> *(a)every offence punishable under this Act shall be cognizable;*
>
> *(b)no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless--*
>
> *(i)the Public Prosecutor has been given an opportunity to oppose the application for such release, and*

(ii)where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2)The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail."

8. This Court cannot conclude that the petitioner has not committed any offence and he will not commit any offence in future in the facts and circumstances of the case. Therefore, I am not inclined to grant bail to the petitioner.

Therefore, this bail application is dismissed.

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

nvj