

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 15TH DAY OF MAY 2020 / 25TH VAISAKHA, 1942

BA NO.2795 OF 2020

(CRIME NO. 85 OF 2019 OF MANNUTHY POLICE STATION, THRISSUR  
DISTRICT)

(SC.NO.253 OF 2019 OF 1<sup>ST</sup> ADDITIONAL SESSIONAL COURT,  
THRISSUR)

PETITIONER/1<sup>ST</sup> ACCUSED:-

HUMAYOON, AGED 21 YEARS,  
S/O. KABEER, VYPINKATTIL HOUSE,  
PATTIKKAD DESOM, THRISSUR DISTRICT.  
PIN- 680652.

BY ADV. V.C.MADHAVANKUTTY

RESPONDENTS/COMPLAINANT:-

1. STATE OF KERALA, REPRESENTED BY  
THE PUBLIC PROCICUTER,  
HIGH COURT OF KERALA  
ERNAKULAM, KOCHI-682031.
2. THE SUB INSPECTOR OF POLICE,  
MANNUTHY POLICE STATION, MANNUTHY,  
THRISSUR DISTRICT. PIN-680651

BY P.P. SRI.B.JAYASURYA (SR) & C.K.PRASAD

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
15.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.A.No. 2795 of 2020

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**P.V.KUNHIKRISHNAN, J**

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B.A.No. 2795 of 2020  
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Dated this the 15<sup>th</sup> day of May, 2020

**ORDER**

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. Petitioner is the first accused in Crime No. 85 of 2019 of Mannuthy Police Station. The above case is registered against the petitioner and others, alleging offences punishable under Sections 20(b) II (A) and 22(b) of the Narcotic Drugs and Psychotropic Substances Act. The petitioner is in custody from 07.02.2019 onwards.

3.The prosecution case is that the petitioner was found in possession of 15 strips of psychotropic substance namely Nitrozepam tablets.

4. The counsel for the petitioner submitted that, the

petitioner is in custody from 07.02.2019. In the light of Covid -19 and in the light of lock down, he may be released on bail.

5.The learned Public Prosecutor opposed the bail application. The learned Public Prosecutor submitted that, huge quantity of psychotropic substance is seized from the petitioner. He is involved in other cases also. Therefore, he strongly opposed the Bail Application.

6. When the Public Prosecutor opposed the Bail Application, the jurisdiction of this Court to grant bail is limited. I am not in a position to conclude that the petitioner is not involved in this case and he will not commit similar offences in future. In the said circumstances, I am not able to consider this Bail Application. Hence, this Bail Application is dismissed.

7. Moreover, the jurisdiction to grant bail has to be exercised on the well settled principles laid down by the

Hon'ble Supreme Court in **Chidambaram P v Central Bureau of Investigation (AIR 2019 SC 5272)**. The apex court held that, the following factors are to be taken into consideration while considering the application for bail.

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

It is true that there is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be decided on the basis of the facts and circumstances of that case. In the light of the general principles laid down in the above judgment and considering the facts and circumstances of this case, I am of the opinion that this is not a fit case in which the petitioner can be released on bail. Hence this Bail Application is dismissed.

**P.V.KUNHIKRISHNAN, JUDGE**