

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 05TH DAY OF MAY 2020 / 15TH VAISAKHA, 1942

BA TMP.NO.175 OF 2020

Crime No. 16 of 2020 of the Excise Enforcement and Anti-Narcotic Special Squad, Thrissur, Pending before the Sessions Court, Thrissur, Thrissur District)

Petitioner/ Sole Accused :-

Adharsh, aged 19, S/o. Anil, Vylappilly House, Marathampillikkara, Kodakara P.O., Chalakudy Taluk, Thrissur District.

By Adv.Bitto.N.L.

Respondent/State of Kerala:-

1. The State of Kerala, rep. by the public Prosecutor High court of Kerala at Ernakulam.
2. Inspector, Excise Enforcement and Anti-Narcotic Special Squad, Thrissur, Thrissur district

BY P.P.SRI.AJITH MURALI & SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 05.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.TMP No.175 of 2020  
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Dated this the 5<sup>th</sup> day of May, 2020

**O R D E R**

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

2. Petitioner is the accused in Crime No.16 of 2020 of the Excise Enforcement and Anti-Narcotic Special Squad, Thrissur registered alleging offences punishable under Section 20(b) of the NDPS Act. Petitioner was arrested on 11.3.2020 and he is in custody.

3.The prosecution case is that the petitioner was found in possession of 1.52gm of MDMA.

4. The counsel for the petitioner submitted that the petitioner is in custody from 11.3.2020 onwards. He is a student aged 19 years. The counsel of the petitioner

also submitted that there is no criminal antecedents to the petitioner.

5.The learned Public Prosecutor opposed the bail application. The learned Public Prosecutor submitted that the offence alleged against the petitioner is serious. The petitioner was found in possession of substance which is a killing material, now a days used by the youths in the country. Therefore, the learned Public Prosecutor submitted that bail may not be granted at this stage.

6.After hearing both sides, according to me, this is not a fit case, in which the bail can be granted. The petitioner was in custody only from 11.3.2020. He was in possession of 1.52gm of MDMA which is a Psychotropic substance. The petitioner is aged only 19 years. The Public Prosecutor opposed the bail application. When the learned Public Prosecutor opposed the bail application, the jurisdiction of this

court to entertain the bail application is limited. In such circumstances, I am not in a position to entertain this bail application.

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 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**

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