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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

MONDAY, THE 17TH DAY OF FEBRUARY 2025 / 28TH MAGHA, 1946

CRL.MC NO. 1199 OF 2025

AGAINST THE ORDER/JUDGMENT DATED 27.09.2024 IN SC
NO.446 OF 2023 OF SPECIAL COURT (ATROCITIES AGAINST SC/ST),
MANJERI

PETITIONER:

MUHAMMED SHIBIL
AGED 27 YEARS
S/O. MUSTHAFA, MUTTENGADAN HOUSE, CHITTATHPARA,
ANAKKAYAM P.O., MALAPPURAM DISTRICT, PIN - 676509

BY ADVS.
P.MOHAMED SABAH
LIBIN STANLEY
SAIPOOJA
SADIK ISMAYIL
R.GAYATHRI
M.MAHIN HAMZA
ALWIN JOSEPH
BENSON AMBROSE

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031
- 2 THE STATION HOUSE OFFICER
PANDIKKAD POLICE STATION, MALAPPURAM DISTRICT,,
PIN - 676521



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OTHER PRESENT:

SRI. M.C. ASHI, PP.

THIS CRIMINAL MISC.CASE HAVING COME UP FOR ADMISSION
ON 17.02.2025, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:



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"CR"

V.G.ARUN, J

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Crl.M.C.No.1199 of 2025

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Dated this the 17th day of February, 2025

ORDER

The petitioner is the 1st accused in Crime No. 624/2022 of Pandikkad Police Station, Malappuram, now pending as S.C. No. 446/2023 on the files of the Special Court for SC/ST (POA) Act and NDPS Act Cases, Manjeri. The offences alleged against the petitioner and other accused are punishable under Sections 22(b) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The gist of the prosecution case is that, on 02.12.2022, at 07.45 p.m., at Karaya Khaja Nagar, petitioner was found in possession of 7.22 grams of MDMA, purchased by the 2nd accused from Bangalore.



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The petitioner was granted bail by this Court, vide Annexure 1 order dated 18.01.2023. Condition No.(vi) of the order required the petitioner to refrain from getting involved in other offences. The order also authorised the investigating officer to approach the jurisdictional court for cancellation of bail, if any condition is violated. As the petitioner violated condition No.(vi) by becoming an accused in Crime Nos.1420/2024 and 1421/2024 registered at the Perinthalmanna Police Station, Malappuram for offences punishable under Sections 22(b) and 29, and Section 22(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985, 2nd respondent approached the Special Court for SC/ST (POA) Act and NDPS Act Cases, Manjeri seeking cancellation of the bail granted to the petitioner and the bail was cancelled as per Annexure 2 order. Hence, this Crl.M.C.

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



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4. Learned counsel for the petitioner relied on the decisions of this Court in **Godson and Another v. State of Kerala** (2022 KHC 672), **Renjith v. State of Kerala** [2023 (2) KHC 310] and **Visakh v. State of Kerala** (2024 KHC OnLine 7149) to contend that mere registration of subsequent crime/s cannot result in automatic cancellation of bail. According to the counsel, for cancelling the bail, court should be satisfied that the subsequent crime is in relation to an attempt on the part of the accused to interfere with the administration of justice or that the subsequent crime would affect the trial of the case in which the accused was granted bail. Referring to the principles laid down by the Apex Court in **Dolat Ram and Others v. State of Haryana** [(1995) 1 SCC 349], it is contended that the consideration required for cancellation of bail and grant of bail are distinct and both should be dealt with differently. It is submitted that the petitioner is falsely implicated in the subsequent crimes and no contraband was recovered from his possession.



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5. Learned Public Prosecutor contended that, by his involvement in subsequent crimes of similar nature, petitioner misused the liberty granted to him, which is sufficient reason for cancellation of bail. Support for the contention is sought to be drawn from the decision of the Apex Court in **P. v. State of Madhya Pradesh** [(2022) 15 SCC 211].

6. It is true that in the decision of this Court cited above it has been held that bail once granted cannot be cancelled mechanically by reason of the accused's involvement in a subsequent crime, unless the prosecution has a case that by such involvement the accused intended to interfere with the administration of justice in relation to the trial of the case in which he was granted bail. In this context it is essential to note that except in **Visakh** (supra), the offences alleged in the 1st crime where the accused was granted bail as well as the offences in the subsequent crime were punishable under the Indian Penal Code. In **Visakh** (supra), while bail was granted in a crime registered for the offence under Section 20(b)(ii)(B)



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of the NDPS Act, the subsequent crime was registered for offences under the IPC. As against this, in the case at hand, the crime in which bail was granted as well as the subsequent crimes are registered for the offences punishable under the NDPS Act. In this context, Section 31 of the NDPS Act providing for enhanced punishment for offences after previous conviction, Section 31A providing for death penalty for certain offences after previous conviction and the rigour of Section 37, in the matter of grant of bail for certain offences cannot be overlooked. The above provisions are indicative of the gravity of drug related crimes and severity of punishment in view of its societal impact. While on the point, it is essential to mention that in the year 2024, 24,517 narcotic related arrests were reported in Kerala, compelling even the State legislature to suspend its regular business for discussing the social impact of substance abuse. This Court cannot be oblivious of this reality. The poisonous fangs of the drug mafia have reached even our school going children. While liberty of an individual is precious



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and is to be protected zealously, that cannot be at the cost of the society. An accused who allegedly misused his liberty by committing the same offence, if allowed to roam free, will undoubtedly be a threat to the society. Bail granted to such an accused is liable to be cancelled, even if the subsequent crime/s does not have the effect of interfering with the trial of the case in which he was granted bail. Pertinent to note that, misuse of liberty by the accused indulging in similar/other criminal activity, finds a prominent place among the circumstances justifying cancellation of bail enumerated in **P. v. State of Madhya Pradesh** (supra).

For the aforementioned reasons, the Crl.M.C is dismissed.

sd/-

V.G.ARUN, JUDGE