

No.D8-114099 /2016/PHQ,
Police Headquarters,
Thiruvananthapuram,
Dated, 30-07-2016.

Circular No.12/2016

Sub:-Application of sections 77, 78 and other sections in the Juvenile Justice (Care and Protection of Children) Act, 2015 (Central Act 2 of 2016) in the detection of offences under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 – instruction – reg.

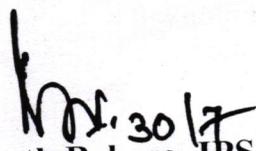
Ref:- Letter No.CA/EC-35/2016 dated 25-06-2016 from Shri.Rishi Raj Singh, IPS, Excise Commissioner.

The consumption of drugs is not merely a social problem, but it is to be viewed as a serious problem from the angle of internal security. There exists a close nexus between drug trafficking, organized crime and terrorism. Hence concerted intelligent action of the State Police along with other agencies entrusted with the task is required to curb the menace in the State of Kerala and to strengthen a global response to this serious challenge and threat to internal security.

02. A clear reading of the provisions of section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (NDPS Act) and court verdicts make it clear that though all offences under the said Act are stated to be cognizable and non-bailable in the head note of section 37, in effect, only offences related to possession and trafficking of commercial quantity of drugs are non-bailable. This means that a person booked for possessing a small quantity of drugs for personal consumption can be released on bail by the police on arrest under the NDPS Act. At present the accused gets bail on the spot if the quantity is less than 1kg ganja etc. But the legal position has now changed when any offence under the NDPS Act is committed in relation to a child making such offences non-bailable under the provisions of the JJ Act, 2015.

03. As per section 77 of the JJ Act, whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees. According to section 78 whoever uses a child, for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine up to one lakh rupees. In view of the above provisions, all officers are hereby instructed to charge section 77 or section 78 of the JJ Act, 2015, as the case may be, along with the relevant provisions under the NDPS Act, wherever a child or children are found associated with any offence under the NDPS Act, 2015, for making such offence non-bailable and also for ensuring maximum punishment.

04. The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) has been brought into force with effect from the 15th day of January, 2016, gazette copy of which has already been uploaded in the Kerala Police website for ready reference. All officers are instructed to get acquainted with the above provisions in the Act in order to ensure compliance with the above directive.


Loknath Behera, IPS,
State Police Chief.

To

All Officers in List D- for information and urgent necessary action.

Copy to: Circular Register, Kerala Police Website.

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6/8/16

