

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.KEMAL PASHA**

**TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936**

**Bail Appl..No. 256 of 2015**  
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**OR.NO.2/2014 OF NARCOTICS CONTROL BUREAU COCHIN.**  
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**PETITIONER/ACCUSED NO.1:**  
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**AJITH E.S, AGED 27 YEARS,  
S/O.SASI E.K, ELAVUNGAL HOUSE,  
KODIKULAM.P.O., THODUPUZHA.**

**BY ADV. SRI. A.P SUBHASH**

**RESPONDENT/COMPLAINANT:**  
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**STATE,  
REP. BY SPECIAL PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI.M.V.S.NAMBOOTHIRY**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 27-01-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**mbr/**

**B.KEMAL PASHA, J.**

.....  
B.A. No.256 of 2015

.....  
Dated this the 27<sup>th</sup> day of January, 2015

**ORDER**

Petition filed under Section 439 Cr.P.C.

2. Petitioner is the first accused in O.R. No.2/2014 of the Narcotics Control Bureau, Cochin registered for the offences punishable under Sections 21(C) and 23(C) read with Sections 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act,1985.

3. The allegation against the petitioner is that on 13.11.2014 he has reported at the Departure Terminal of the Cochin International Airport for flying to Kuwait by Kuwait Airways KU-352. On getting information that he was carrying contraband, his movements were monitored by the Narcotics Control Bureau officers and he was found carrying

a black coloured travelling bag. On his getting the Boarding Pass, after checking in, the Narcotics Control Bureau officers took him, conducted a search on him and traced out 1.988 kg. of Heroine, which was secretly placed in a special chamber built for the said purpose at the bottom of the black coloured travelling bag. Petitioner has been in custody for the period from 13.11.2014 onwards.

4. Heard learned counsel for the petitioner and the learned Special Public Prosecutor.

5. According to the learned counsel for the petitioner, the petitioner had to fly from Kuwait to his Station as his father became seriously laid up and after attending his ailing father he had to return to his work place within one week. While he was returning so, a person named Ramu, on whom he had absolute faith, requested him to take a luggage for him to Kuwait and consequently, he was supplied with the said travelling bag by somebody, just before his checking in.

6. The learned Special Public Prosecutor for Narcotics Control Bureau has vehemently opposed the petition and has filed an objection.

7. The contents of the CD, *prima facie*, reveal the complicity of the petitioner. Investigation has a long way to go. If at all the petitioner has got a case that he was not in conscious possession of the contraband, that has to be established by the petitioner. Presently, there is nothing to show that he was not in conscious possession of the contraband. Matters being so, considering the seriousness of the allegations against the petitioner, the seizure of the contraband from his possession and the present stage of investigation, I am of the view that the petitioner is not entitled to be enlarged on bail.

In the result, this Bail Application is dismissed.

**Sd/- B.KEMAL PASHA, JUDGE**

ul/-

B.A.No. 256 of 2015

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[True copy]

P.S. to Judge