

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936`

Bail Appl..No. 503 of 2015 ()

**CRIME NO. 49/2013 OF BEDIDUKA EXCISE RANGE,
KASARGOD DISTRICT**

PETITIONER/ACCUSED :

**SUNDARAN M.B., AGED 34 YEARS,
S/O.BABU, MADKA, PALLAPPADI P.O.,
BELLUR, KASARAGOD DISTRICT**

**BY ADVS.SRI.K.P.HARISH
KUM.K.SASIKALA**

RESPONDENTS/COMPLAINANT & STATE :

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. THE EXCISE RANGE OFFICER,
(CRIME NO.49/2013 OF BADIADKA EXCISE RANGE)
KASARAGOD DISTRICT-671121.**

BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

B.KEMAL PASHA, J.

B.A.No.503 of 2015

Dated this the 3rd day of February 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the second accused in Crime No.49/2013 of Badiadka Excise Range, Kasaragod district registered for the offences punishable under Sections 55(a) and 64A of the Abkari Act.

3. It is alleged that on 4.11.2013 at 8 p.m., the petitioner along with the first accused, were found transporting 43.200 litres of Indian Made Foreign Liquor in 240 plastic bottles of 180 ml. each, by an autorikshaw bearing registration number KL 14 L 9257. On seeing the excise party, the petitioner got down from the autorikshaw and ran away from the spot. The first accused was

arrested.

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

5. According to the learned counsel for the petitioner, the petitioner is not involved in the incident and only on a mere suspicion, he has been arrayed in this case as the second accused. This is an application seeking anticipatory bail in an Abkari case, which cannot normally be entertained. According to the Investigating Officer, the petitioner has been absconding and therefore, he could not be arrested. Considering the facts and circumstances of the case and the seriousness of the allegations against the petitioner, I am satisfied that this is not a fit case wherein anticipatory bail can be granted.

6. The learned counsel for the petitioner seeks for an opportunity to the petitioner to surrender before the investigating officer and to co-operate with the investigation.

7. In the result, this bail application is dismissed. At the same time, if so advised, the petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioner, effect recovery if any, and conduct the investigation and produce the petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the petitioner can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

sd/

**B.KEMAL PASHA,
JUDGE**

dl

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PATO JUDGE