

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

Bail Appl..No. 655 of 2015 ()

CRIME NO. 29/2015 OF CHEVAYUR POLICE STATION, KOZHIKODE DISTRICT

PETITIONER/ACCUSED:

**SARTH.T, AGED 25 YEARS,S/O.SASIDHARAN,
KUTTUMPURATHMEETHAL HOUSE, PALATH P.O.,
KOZHIKODE.**

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT(S)/COMPLAINANT & STATE:

- 1. SUB INSPECTOR OF POLICE,
CHEVAYUR POLICE STATION, KOZHIKODE - 673 571.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
KOCHI - 682 031.**

BY PUBLIC PROSECUTOR SMT. LALIZA.T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

B.KEMAL PASHA, J.

=====

B.A. No.655 of 2015

=====

Dated this the 4th day of March, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.29 of 2015 of the Chevayur Police Station, registered for the offence punishable under Section 55(a) of the Abkari Act.

3. The allegation against the petitioner is that on 09.01.2015 at 7.45 p.m., he was found transporting 3.5 litres of Indian Made Foreign Liquor and two bottles of beer by a car bearing registration No.KL-05-S-5998. On seeing the Police party, he stopped the car and ran away from the spot after leaving the car and the contraband.

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

5. The learned counsel for the petitioner has pointed out that the said contraband substances were purchased by him

from the outlet of Beverages Corporation at 6.45 p.m. on 09.01.2015 itself and the same was being taken to his house in connection with a marriage ceremony, and it was not meant for sales or like that. The learned counsel for the petitioner has pointed out that at most the offence can only be the one for possessing excess quantity of Indian Made Foreign Liquor, that too purchased from the outlet of the Beverages Corporation. Being an application seeking anticipatory bail in an Abkari offence, I am of the view that the same cannot be entertained. At the same time, the court below shall take note of the aforesaid observations while considering the application seeking bail. As no criminal antecedents have been reported against the petitioner and considering the facts and circumstances of the case, I am of the view that an opportunity can be granted to the petitioner to surrender before the investigating officer and to co-operate with the investigation.

6. 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 court below, 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.

7. The court below, while considering the application seeking bail, shall take note of the aforesaid observations made by this Court and the evidences available with the petitioner.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/4/3/15

// True Copy //

P.A. To Judge