

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

Bail Appl..No. 755 of 2015 ()

CRIME NO. 12/2015 OF PONNANI EXCISE RANGE, MALAPPURAM DISTRICT.

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PETITIONER/ACCUSED:

**GEETHA, D/O. KRISHNAN,
AGED 42 YEARS, ITTIYAMPARAMBIL HOUSE,
KALADY, KADANCHERY, PONNANI TALUK,
MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR.

RESPONDENTS/STATE & COMPLAINANT:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.**
- 2. THE EXCISE INSPECTOR,
PONNANI EXCISE RANGE,
MALAPPURAM DISTRICT, PIN-679 577.**

BY PUBLIC PROSECUTOR SMT.LALIZA. T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

B.KEMAL PASHA, J.

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B.A. No.755 of 2015

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Dated this the 25th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.12 of 2015 of the Ponnani Excise Range, registered for the offence punishable under Section 55(i) of the Abkari Act.

3. The allegation against the petitioner is that on 27.01.2015 at 6.15 p.m., she was found engaged in selling Indian Made Foreign Liquor in contravention of the provisions of the Abkari Act, and a quantity of 500 ml of Indian Made Foreign Liquor was seized from her possession. The petitioner was not arrested, as any Woman Excise Officer or other Woman Officer was not present with the Excise party.

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

5. It is a fact that the petitioner was not arrested even though she was found in possession of the alleged contraband. It is true that only a small quantity of the contraband was seized and no criminal antecedents have

been reported against the petitioner. At the same time, this is an application for anticipatory bail in an Abkari case, which cannot be entertained. By considering the fact that the petitioner is a woman and that she was not arrested, and a small quantity of contraband is involved and also the absence of criminal antecedents on her part, I am of the view that while dismissing the application for anticipatory bail, an opportunity can be granted to the petitioner to surrender before the investigating officer and to co-operate with the investigation.

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.

The court below shall take note of the aforesaid observations made by this Court in the matter, while dealing with the application.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/26/2/15

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P.A. To Judge