

**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. 977 of 2015**  
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**CRIME NO. 6/2015 OF EXCISE RANGE, MUVATTUPUZHA, ERNAKULAM DISTRICT**  
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**NAME AND ADDRESS OF THE APPLICANT/ACCUSED :**  
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**ROMAL, AGED 36 YEARS,  
S/O.THOMAS, THACHILEDATHU HOUSE, MANJALLOOR VILLAGE,  
MUVATTUPUZHA.**

**BY SRI.P.VIJAYA BHANU (SENIOR ADVOCATE)  
ADV. SRI.THOMAS J.ANAKKALLUNKAL**

**NAME AND ADDRESS OF THE RESPONDENT/COMPLAINANT :**  
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**STATE OF KERALA,  
REPRESENTED BY THE INSPECTOR MUVATTUPUZHA EXCISE  
RANGE THROUGH PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SMT.LAIZA.T.Y**

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

Msd.

**B. KEMAL PASHA, J.**

.....  
B.A. No.977 of 2015  
.....

*Dated this the 4<sup>th</sup> day of March, 2015*

**ORDER**

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Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.6/2015 of Muvattupuzha Excise Range registered for the offences punishable under Sections 8(1) and (2) and 55(g) of the Abkari Act.

3. The allegation against the petitioner is that on 22.01.2015 at 6.3530 p.m. he was found in possession of 750 ml. of arrack and implements for brewing arrack.

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

5. The learned senior counsel for the petitioner has pointed out that the petitioner has never involved in any crime earlier and he was not engaged in brewing arrack or possessing arrack for sales. The contraband involved is a

small quantity of arrack of 750 ml. Even the prosecution has no allegation that it was possessed by him for sales. At the same time, possession of arrack is illegal. This is an application seeking anticipatory bail in an abkari case, which cannot be entertained. At the same time, considering the fact that the petitioner has never involved in any crime and the said small quantity of contraband possessed by him was not for sales, I am of the view that, while dismissing this bail application, 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 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.

The court below shall not treat the matter mechanically, and shall go into the merits of the same. The court below shall consider the matter in the light of the aforesaid observations made by this Court and the fact that the said small quantity of contraband was not possessed by him for sales.

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

aks/04/03

*// True Copy //*

*PA to Judge*