

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

Bail Appl..No. 980 of 2015 ()

CRIME NO. 15/2015 OF ALUVA EXCISE RANGE OFFICE, ERNAKULAM DISTRICT

APPLICANT/ACUSED NO.2 :

**SHAJI, AGED 44 YEARS
S/O. DEVASSY, KUNNATHAN HOUSE, CHOWARA VILLAGE
ALUVA TALUK, SREEMOLANAGARAM.**

**BY ADVS.SRI.V.C.SARATH
SRI.VIPIN NARAYAN**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. SREEJITH V.S.

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

Mn

B.KEMAL PASHA, J.

B.A.No.980 of 2015 B

Dated this the 3rd day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the second accused in Crime No.15/2015 of Aluva Excise Range, Ernakulam registered for the offences punishable under Sections 55(a) and (i) and 67B of Abkari Act.

3. The allegation against the petitioner and the other accused is that on 1.2.2015 at 1.30 p.m., they were engaged in selling Indian Made Foreign Liquor, in contravention of the provisions of the Abkari Act, and on seeing the excise party, the petitioner and another person, who was purchasing liquor from the accused, ran away from the spot. A1 alone was placed under arrest, and the IMFL involved was seized.

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

5. According to the learned counsel for the petitioner, the petitioner had approached the first accused for purchasing liquor and at that time he had to run away from the spot. The learned Public Prosecutor has pointed out that the petitioner was the person who was collecting money from the other person and it was at that time, he ran away from spot on seeing the excise party. This is an application seeking anticipatory bail in an Abkari case, which cannot normally be entertained. Any sufficient circumstance, which invites the interference of this Court under Section 438 of Code of Criminal Procedure is not there, in the present case. Considering the seriousness of the allegations against the petitioner, I am of the view that this is a not fit case wherein anticipatory bail can be granted to the petitioner. At the same time, as there is no criminal antecedents on the part of the

petitioner, I am of the view that the petitioner can be given an opportunity 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 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

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PA to Judge