

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE B.KEMAL PASHA**

**MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937**

**Bail Appl..No.1595 of 2015**  
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**(CRIME NO.159/2015 OF KADAVANTHRA POLICE STATION,ERNAKULAM).**

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**PETITIONER(S)/A4:**  
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**TINCY BABU,AGED 25 YEARS,D/O.BABU,  
THANDALATHU HOUSE,SVM P.O.  
KOZHIKODE,KARUNAGAPPALLY,KOLLAM.**

**BY ADV.SRI.SHAJIN S.HAMEED**

**RESPONDENT/STATE:**  
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**STATE OF KERALA,  
REPRESENTED BY THE INSPECTOR OF POLICE,  
ERNAKULAM CENTRAL,KOCHI,  
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA.**

**BY DIRECTOR GENERAL OF PROSECUTION SRI.TASAF ALI.**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 30-03-2015, ALONG WITH BA 1611/2015 AND CONNECTED CASES THE  
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**pk**

**B. KEMAL PASHA, J.**

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B.A. Nos.1595, 1611, 1620, 1636  
& 1805 of 2015  
.....

*Dated this the 30<sup>th</sup> day of March, 2015*

**ORDER**

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Petitioners are A1 to A5 respectively in Crime No.159/2015 of Kadavanthra Police Station, Ernakulam registered for the offences punishable under Sections 21(b), 27(a) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the NDPS Act).

2. The prosecution case is that on prior secret information that a smoke party was going on in Duplex Flat No.13F and 14F of Skyline Topaz Apartment, Kadavanthra, the investigating officer along with the police party reached

the flat at 00.15 a.m. on 30.01.2015 and found the petitioners present in the flat. They were allegedly enjoying the smoke party. Cigarette buds etc. were seen in the ashtray and some fresh cigarettes were also seen. According to the prosecution, the investigating officer was satisfied that the petitioners were smoking cigarette smeared with cocaine or some other narcotic drugs. The option to be searched in the presence of a gazetted officer or Magistrate was given to those petitioners, according to the prosecution, and the presence of a gazetted officer was made available and the body search of the petitioners were conducted. Nothing incriminating was recovered from the body search of A3. The women were separated and their body search was conducted through a Woman Police Constable. Nothing incriminating was seized from the body search of A2, A4 and A5 also. At the same time, it is alleged that on the body search of A1, a polythene packet

containing 10 other small packets of some white substance was seized from the pocket of the jeans worn by A1. The said white substance was found to be cocaine. All the petitioners were placed under arrest. The contraband has been seized through a mahazar and other legal formalities were complied with. The petitioners have been in custody for the period from 31.01.2015 onwards.

3. Heard the learned Senior Counsel Sri.B.Raman Pillai, Sri.K.R.Vinod, Sri.P.A.Mujeeb, Sri.Shajin S.Hameed, and Sri.Venkatesh Gopi for the petitioners and learned DGP Sri.Asaf Ali.

4. The petitioners had earlier moved this Court for bail and their applications seeking bail were dismissed by this Court vide common order dated 10.03.2015. Over and above the objections raised by the learned DGP earlier, he has raised some more objections also. The learned DGP has pointed out that a split charge has been filed in the

matter as against the present petitioners herein. It is also argued that as far as A1 is concerned, she has links with some lobbies dealing in narcotic items in Chennai and the same has also be unearthed. Further, it has been pointed out that A5 has not co-operated with the investigation and has not divulged the role of A5 in the incident so far.

5. When a split charge has already been filed as against these petitioners, it cannot be said that the continued detention of the petitioners in custody is required for the continued investigation. Having regard to the period undergone by the petitioners in custody and the quantity of the contraband being intermediate, within the meaning of the NDPS Act, I am of the view that the petitioners can be enlarged on bail by making sufficient safeguards for their availability for further interrogation, if any required, and for the trial of the case.

6. In the result, these Bail Applications are allowed

and the petitioners shall be enlarged on bail on each of them executing a bond for ₹1,00,000/-(Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the court below and subject to the following terms and conditions:-

*(i) The petitioners shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Mondays and Thursdays, commencing from 06.04.2015 for a period of six months.*

*(ii) The petitioners shall surrender their passports before the court below. If they have no passports, affidavits to that effect shall be filed before the court below.*

*(iii) The petitioners shall not leave the State of Kerala without the prior permission of the court below, till the disposal of the case.*

*(iv) The petitioners shall furnish their place of residence and mobile phone numbers in which they will be available at all times until further orders to the investigating officer.*

*(v) The petitioners shall not tamper with the evidence or influence witnesses.*

*(vi) The petitioners shall make themselves available for interrogation as and when required by the Investigating Officer.*

BA.1595/2015 & connected cases

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*(vii) The petitioners shall not involve in any offence while on bail.*

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

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

aks/30/03

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*PA to Judge*