

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Bail Appl..No.2179 of 2015

CRIME NO.20/2015 OF KUMBALA EXCISE RANGE OFFICE,KASARGOD.

PETITIONER/ACCUSED:

**JAYARAMA SHETTY,AGED 50 YEARS,
S/O.THYAMPANNA SHETTY,KADAMBILA DESAM,
PERVAI VILLAGE,BANTWAL TALUK,KARNATAKA.**

BY ADV.SRI.V.A.VINOD

RESPONDENT'S/COMPLAINANT/STATE:

- 1. THE STATION HOUSE OFFICER,
KUMBALA EXCISE RANGE-672122.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM-682031.**

R1 & R2 BY PUBLIC PROSECUTOR SMT.BINDU GOPINATH.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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K.RAMAKRISHNAN, J.

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B.A. No.2179 of 2015

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Dated this the 28th day of April, 2015

O R D E R

This is an application for regular bail filed by the sole accused in Crime No.20/2015 of Kumbala Excise Range under Section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 06.04.2015 at 6.15 pm the accused was found transiting 40 bottles of Indian Made Foreign Liquor of 180 ml each without any documents for the purpose of sale and thereby he had committed the offence punishable under Section 55(a) of the Abkari Act.

3. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor.

4. The counsel for the petitioner submitted that the petitioner has not committed any offence and he is innocent of the same and he has been falsely implicated in the crime. He in jail from 07.04.2015 onwards. No offence under Section 55(a) of the Abkari Act is attracted.

5. The application was opposed by the Public Prosecutor on the ground that the investigation is still in progress.

6. It is seen from the report of the Investigating Officer that the petitioner was arrested on 06.04.2015 at 6.15 pm along with 40 bottles of Indian Made Foreign Liquor of 180ml each and he is in jail from that day onwards. I am not at this stage going to the question as to whether the allegations are sufficient to attract the offence under Section 55(a) of the Abkari Act or not as it is a matter for evidence. Further the apprehension of the Public Prosecutor that if the petitioner is released on bail, he will not co-operate with the investigation of the case as he is from Karnataka state. Considering the nature of the contraband articles seized, the period of detention and also considering the fact that he has not committed any offence of similar nature earlier, this Court feels that bail can be granted to the petitioner with some stringent conditions. So, the application is allowed with the following conditions:

i) The petitioner shall be released on bail on executing a bond for ₹25,000/-(Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the Judicial First Class Magistrate Court-I, Kasargod, one of the sureties should be from Kasargod district.

ii) The petitioner shall appear before the Investigating Officer for the purpose of interrogation on the last Saturday of every month between 9 am and 10 am till the final report is filed.

iii) The petitioner shall appear before the Investigating Officer for the purpose of interrogation in connection with the above crime as and when required in writing to do so till the final report is filed.

iv) The petitioner shall not intimidate or influence the witnesses.

iv) The petitioner shall not involve in any other similar crime during the bail period.

v) The petitioner shall not leave Kasaragod district without getting prior permission from the Judicial First Class Magistrate-I, Kasaragod , till the disposal of the case.

vi) The petitioner shall furnish his address in Kasaragod district to the investigating officer so as to enable him to contact the petitioner during investigation.

With the above condition, this application is allowed.

K.RAMAKRISHNAN, JUDGE

sj