

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 8TH DAY OF MAY 2015/18TH VAISAKHA, 1937

Bail Appl..No. 2316 of 2015

AGAINST THE ORDER IN CMP 4212/2015 of J.M.F.C.-I, HOSDRUG

CRIME NO.32/2015 OF NEELESWARAM EXCISE RANGE OFFICE , KASARGOD

PETITIONER/ACCUSED:

JOSEPH KURUSSUKUNNEL, AGED 76 YEARS,
S/O.VARGHESE, RESIDING AT KINARUMUKKU,
ETTUKUDUKKA,
MATHIL VILLAGE, THALIPPARAMBA TALUK,
KANNUR DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENT/STATE:

THE STATE OF KERALA
THROUGH THE EXCISE RANGE OFFICER,
NILESHWAR EXCISE RANGE, KASARAGOD DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM. 682 031.

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ab

P.UBAID, J.

B.A No.2316 of 2015

Dated this the 8th day of May, 2015

O R D E R

The petitioner herein is the accused in Crime No.32/2015 of the Nileshtar Excise Range, registered under Section 58 of the Kerala Abkari Act. He seeks regular bail under Section 439 of the Code of Criminal Procedure. The application filed by him for regular bail was dismissed by the learned Judicial First Class Magistrate I, Hosdurg on 13.4.2015. The petitioner has been in judicial custody since 12.4.2015.

2. The prosecution case is that on 12.4.2015 the petitioner was found transporting 2.250 liters of Indian made foreign liquor.

3. This application for regular bail is opposed by the learned Public Prosecutor on the ground that investigation is still in progress, and that if the accused is now released, it will definitely obstruct the investigation.

4. On hearing both sides, and on a perusal of the materials including the case diary I find that investigation in this case is practically over, and that the petitioner can be now

released on appropriate conditions. On a perusal of the case diary, I find that the investigating officer has already questioned the material witnesses and has recovered the material properties. However, the petitioner will have to be directed report before the investigating officer till investigation is over, to ensure that the remaining part of investigation is not in any manner obstructed. I find that the police has already collected the necessary materials as part of investigation, and I do not find the necessity of continued detention of the petitioner in custody.

5. In the result, this application for bail is allowed. The petitioner will be released on bail after seven days from this on his executing bond with two solvent sureties for ₹25,000/- to the satisfaction of the learned Judicial First Class Magistrate I, Hosdurg. Bail is granted on condition that

a) The petitioner shall report before the investigating officer between 10 am. and 11 am. on all Wednesdays for a period of two months.

b) The petitioner shall not leave the jurisdictional limits of the learned Judicial First Class Magistrate, Hoadurg for a period of two months.

c) The petitioner shall not in any manner

influence or intimidate the material witnesses, and he shall not have any contact with the material witnesses directly or over telephone or otherwise.

d) The petitioner will make a security deposit of ₹10,000/- (Rupees ten thousand only) in the court below as a further condition for bail. The amount of security deposit will be released on conclusion of trial. It will be subject to forfeiture in case of absence during trial without sufficient reason.

f) The petitioner shall not in any offence punishable under the Kerala Abkari Act till conclusion of trial.

**P.UBAID
JUDGE**

ab