

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. 2363 of 2015 ()

CRIME NO. 376/2015 OF KADIRUR POLICE STATION, KANNUR DISTRICT

PETITIONER/ACCUSED:

**THAMEEM, AGED 27 YEARS,
S/O.KHADER, AYISHA MANZIL, CHAVASSERY AMSOM,
VALIYAMBRA, PERIYATHIL.**

BY ADV. SMT.K.DEEPA (PAYYANUR)

RESPONDENT(S)/COMPLAINANT:

- 1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. THE STATION HOUSE OFFICER,
KADIRUR POLICE STATION, KANNUR DISTRICT.**

BY PUBLIC PROSECUTOR SMT. BINDHU 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.2363 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 1st accused in Crime No.376/2015 of Kadirur Police Station of Kannur district under Section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 10.04.2015 at 9.30 pm at Pattiam amsom, Ottachimakkul, the accused persons were found transporting 54 bottles of Indian Made Foreign Liquor in an autorikshaw bearing Registration No. KL-59-E 9579 without any documents for the purpose of sale and thereby he had committed the offences punishable under Sections 55(a) of the Abkari Act.

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

4. The learned counsel for the petitioner submitted that the petitioner is only the owner of the vehicle and he had no

connection with the alleged transport of the contraband articles and he was summoned to the police station and insisted to furnish the details of the driver and though he had furnished the driver's particulars, instead of arresting him, he has been falsely implicated in the case. He is in jail from 21.04.2015 onwards.

5. The application was opposed by the Public Prosecutor on the ground that the investigation is still in progress and 2nd accused, the driver of the vehicle is yet to be arrested.

6. It is seen from the records that the above case was registered when the Kadirur police found the auto rikshaw carrying Indian Made Foreign Liquor. On seeing the police party the driver and the person in the vehicle ran away from the place abandoning the vehicle and the contraband articles and they have seized the vehicle and contraband articles and registered the above crime against two identifiable persons.

During investigation it was revealed, according to the prosecution that the petitioner is the owner of the vehicle and with the assistance of the 2nd accused they are illegally transporting the contraband articles in the auto rickshaw, which was denied by the petitioner. He was arrested on 21.04.2015. The Prosecutor has no case that the petitioner has involved in any other crime of similar nature earlier. I am not at this stage going into the question as to whether the petitioner has involved in the commission of the crime, as alleged by the prosecution or he was only the owner of the vehicle and he was not in the vehicle, as claimed by the counsel for the petitioner, as those are all the matters to be considered and appreciated by the trial court. However, custody of the petitioner is not required anymore in connection with the investigation. So, considering the nature of contraband articles and the period of detention, this Court feels that the 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 Additional Chief Judicial Magistrate, Thalassery.

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 for a period of two months or till the final report is filed, whichever is earlier.

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.

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

vi) The petitioner shall surrender his passport, if any, before the Additional Chief Judicial Magistrate, Thalassery within one week from the date of his release and if he is not having any passport, file an affidavit to that effect before that court.

vii) The petitioner shall not leave State of Kerala without getting prior permission either from the Additional Chief Judicial Magistrate, Thalassery or from the court which the case will be committed for trial, till the disposal of the case.

With the above conditions, this application is allowed.

K.RAMAKRISHNAN, JUDGE

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