

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

Bail Appl..No. 3160 of 2015 ()

AGAINST THE ORDER IN CRMP 872/2015 of ADDL.SESIONS COURT - II,
KALPETTA DATED 13.05.2015
CRIME NO. 54/2015 OF SULTHANBATHERY EXCISE RANGE OFFICE, WAYANAD

PETITIONER(S)/ACCUSED:

MAHESH, AGED 32 YEARS
S/O. SASIDHARAN, POOLAKKANDA HOUSE, NAMBIARKUNNU P.O.
NENMENI AMSOM, SULTHANBATHERY TALUK, WAYANAD.

BY ADV. SRI.M.PREMKUMAR

RESPONDENT(S)/STATE:

STATE OF KERALA
REPRESENTED BY EXCISE INSPECTOR
SULTHANBATHEY EXCISE RANGE, WAYANAD
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT.M.G.LISHA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
17-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Pn

B.SUDHEENDRA KUMAR, J.

Bail Application No. 3160 of 2015

Dated this the 17th day of June, 2015

O R D E R

The petitioner is the accused in Crime No.54/2015 of Sulthanbathery Excise Range registered under Section 55(a) and (i) of the Abkari Act.

2. The prosecution allegation is that on 01.05.2015 at about 7.45 p.m., the petitioner was found in possession of 4.5 liters of Indian made Foreign Liquor for the purpose of sale.

3. The petitioner has filed this application under Section 438 Cr.P.C.

4. Heard. Perused the case dairy.

5. The learned Public Prosecutor has opposed the application. It appears from the case diary that there are materials to prima facie connect the petitioner with the commission of the offence.

6. If the learned Public Prosecutor opposes the application, there is embargo under Section 41(A) of the Abkari Act in granting bail under Section 439 Cr.P.C. If that be so, the inhibition will be more severe when an application under Section

438 Cr.P.C. is dealt with. Since the learned Public Prosecutor has opposed the application, I am not inclined to grant the relief under Section 438 Cr.P.C. in favour of the petitioner, particularly, when there are materials to prima facie connect the petitioner with the commission of the offence.

In the result, this application stands dismissed. However, the petitioner shall be at liberty to surrender before the Excise Inspector, Sulthanbathery within 10 days , if so advised. In the event of such surrender, the Excise Inspector shall produce the petitioner before the Jurisdictional Magistrate after interrogation. If the petitioner files any application for bail on his production before the Jurisdictional Magistrate, the learned Magistrate shall consider and dispose of the application for bail, as expeditiously as possible, strictly in accordance with law.

Sd/-

B.SUDHEENDRA KUMAR, JUDGE.

/true copy/

P. A. to Judge

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