

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

Bail Appl..No. 3640 of 2015 ()

CRIME NO. 49/2015 OF HOSDURG EXCISE RANGE OFFICE, KASARGOD

PETITIONER/ACCUSED :

**M.RAJESH, AGED 31 YEARS,
S/O.LATE POKKAN, BALAMTHODE, KAPPITHOTTAM,
PANATHADY VILLAGE, VELLARIKKUNDU, KASARAGOD DISTRICT**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING EXCISE INSPECTOR,
HOSDURG EXCISE RANGE, KASARAGOD DISTRICT**

BY PUBLIC PROSECUTOR SRI.V.S. SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

MARY JOSEPH, J.

B.A. No.3640 of 2015

Dated this the 3rd day of July 2015

O R D E R

Application for bail filed under Sec.439 of the Code of Criminal Procedure.

2. Petitioner is accused in Crime No.49 of 2015 of the Excise Range office, Hosdurg registered for the offences punishable under Secs.8(1) and (2) of the Kerala Abkari Act. The prosecution allegation was that on 05.06.2015 at about 1.15 p.m., the petitioner was found transporting 15 litres of liquor in a kannas through Balamthode-Kappithottam road in Panathady village. The contraband was seized by the respondent, the petitioner was arrested from the spot and the crime in question was registered. On the production of the petitioner before the Judicial First Class Magistrate Court-I, Hosdurg on 09.06.2015, he was remanded to judicial custody. He applied for bail vide C.M.P. No.5702 of 2015 before the Judicial First Class Magistrate Court-I, Hosdurg but, it was dismissed by the learned Magistrate. In the said

circumstances, this application is filed seeking regular bail.

3. Sri. Vipin Das T.K., learned counsel appearing for the petitioner and Sri. V.S. Sreejith, the learned Senior Public Prosecutor appearing for the respondent were heard. The case diary as well as the report furnished by the respondent, were perused.

4. According to the learned counsel, the petitioner was arrested on 05.06.2015 from the spot of detection itself and has already completed 29 days in custody. It is submitted that the material part of the investigation is over with the seizure of the contraband and no purpose will be served by detaining the petitioner in custody, any further.

5. Learned Public Prosecutor has opposed the bail application stating that the investigation is not completed. According to him, contraband seized was sent for chemical analysis and the report of analysis is awaited. A query about the criminal background of the petitioner is answered by the learned Public Prosecutor in the negative.

6. In view of the conclusion of the material part of the investigation and lack of criminal antecedents against the petitioner, every justification is there for this Court to consider the bail application in his favour.

In the result, the bail application is allowed and the petitioner stands enlarged on bail on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Judicial First Class Magistrate-I, Hosdurg and subject to the conditions laid down herein below.

1. The petitioner shall report before the Investigating Officer in between 9.00 a.m. and 11.00 a.m. on all Mondays and Thursdays commencing from 13th July 2015 for a period of three months or till the filing of the final report in the case in question, whichever is earlier.

2. The petitioner shall not tamper with the evidence or influence the witnesses.

3. The petitioner shall not involve in any offence while on bail.

4. The petitioner shall not enter the limits of Excise Range, Hosdurg, Kasaragod District except for compliance of condition no.1, for a period of three months from the date of this order.

5. The petitioner shall make a security deposit of Rs.5,000/- (Rupees five thousand only) before the Judicial First Class Magistrate Court-I, Hosdurg for ensuring her presence during the trial proceedings.

In case of violation of any of the aforesaid conditions, the respondent is at liberty to move for cancellation of bail in accordance with law.

Sd/-
MARY JOSEPH
JUDGE

/ True Copy /

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P.A. To Judge