

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

Bail Appl..No. 5659 of 2015 ()

CRIME NO. 54/2009 OF ADOOR EXCISE RANGE OFFICE, PATHANAMTITTA

PETITIONER/ACCUSED NO.1:

MANIRAJ AGED 48 YEARS
S/O. RAGHAVAN, HARISREE, INJAKKATTU
KALAYAPURAM P.O., KOTTARAKKARA, KOLLAM.

BY ADVS.SRI.KRISHNA PRASAD. S
SRI.NOBEL RAJU
SRI.S.SAJEEB

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, REPRESENTING EXCISE INSPECTOR
ADOOR RANGE, PATHANAMTHITTA- 682 031.

R BY PUBLIC PROSECUTOR SRI.C. RASHEED

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
25-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

B.A. No. 5659 of 2015

Dated this the 25th day of September, 2015.

ORDER

The petitioner is the first accused in Crime No.54/2009 of Adoor Excise Range registered under Sections 55 (a), (b), (g), (h), (i), 58 and 64 (a) of the Abkari Act.

2. The prosecution allegation is that on 23.4.2009 at about 1.45 p.m, the petitioner was found in possession of 35 litres of spirit and 48 bottles of illicit liquor, each bottle having a capacity of 1½ litres each, in contravention of the provisions of the Abkari Act.

3. After completing the investigation, the investigating officer filed the final report before the court.

4. It appears from the case diary that there are materials to *prima facie* connect the petitioner with the commission of the offence. 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 of 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 connect the petitioner with the commission of the offence. That apart, the final report had been already filed and the matter is presently pending as C.P.No.47/2012 before the court.

In the result, this application stands dismissed.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl.

True Copy

PA to Judge