

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

Bail Appl..No. 6006 of 2015

CRIME NO. 149/2015 OF VADAKARA EXCISE RANGE, KOZHIKODE DISTRICT.
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PETITIONER/ACCUSED:

**ABIJITH.K, AGED 22, S/O.BABU,
KAZHUNGIL HOUSE, ERANJIKKAL,
ELATHUR(P.O), KOZHIKODE DISTRICT.**

**BY ADVS.SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P**

RESPONDENTS/COMPLAINANT & STATE:

- 1. THE EXCISE INSPECTOR,
EXCISE RANGE OFFICE, VADAKARA, PIN-673101.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
KOCHI-682031.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 19-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

RAJA VIJAYARAGHAVAN V, J.

B.A.No.6006 of 2015

Dated this the 19th day of October, 2015

O R D E R

This is an application for anticipatory bail filed under S.438 of the Code of Criminal Procedure.

2. The petitioner herein is the sole accused in Crime No.149/2015 of Vadakara Excise Range. The said crime has been registered alleging offence punishable under S.58 and S.67(B) of the Abkari Act.

3. The prosecution allegation is that on 11.09.2015, at about 5.30 a.m., when a Maruti Swift car bearing registration No.KL.11/AV 6856, was attempted to be stopped by the Excise party during routine check, the driver fled away and later the said vehicle was found abandoned near the Madappally Govt.Higher Secondary School. Search

of the vehicle revealed 8 cases of Indian Made Foreign Liquor in the dickey of the said vehicle. Inspection of the car led to a traffic offence receipt dated 09.09.2015 issued in favor of the petitioner, on the basis of which, authorship of the crime was placed on the petitioner.

4. I have heard the learned counsel appearing for the petitioner as well as the learned Public Prosecutor.

5. The learned counsel appearing for the petitioner has submitted that the said Maruti car is owned by one Mammu who is running a rent-a-car business. The petitioner had hired the car on 09.09.2015 and the said car was returned back to the owner of the vehicle on 10.09.2015. According to the learned counsel, a receipt dated 09.09.2015, containing the name of the petitioner was found in the car and that is the reason why he was implicated as the accused in the crime which was allegedly

committed on 11.09.2015.

6. The learned Public Prosecutor has opposed the contentions raised by the learned counsel and has submitted that the petitioner is not entitled to the relief of a pre-arrest bail. Though the learned Public Prosecutor was directed to produce the 161 statement of Mammu, the owner of the car, to ascertain the genuineness of the contentions raised by the petitioner, the same was not produced as according to the learned Public Prosecutor, confiscation proceedings were going on before the excise authorities.

7. After having heard the learned counsel for the petitioner and the learned Public Prosecutor, I am not inclined to grant the reliefs prayed for by the petitioner.

8. However, if the petitioner is so advised, he may surrender before the Investigating Officer within "ten days"

from today and in such case, the Investigating Officer shall interrogate the petitioner, and conduct necessary investigation and thereafter produce the petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the petitioner can move for bail. In such case, the learned Magistrate shall pass appropriate orders, taking serious note of the contentions raised by the petitioner, expeditiously on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor.

The application is disposed of as above.

Sd/-

**RAJA VIJAYARAGHAVAN V,
JUDGE.**

Bb

[True copy]

P.A to Judge