

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

TUESDAY, THE 29TH DAY OF DECEMBER 2015/8TH POUSHA, 1937

Bail Appl..No. 8408 of 2015 ()

CRIME NO. 143/2015 OF HOSDURG EXCISE RANGE OFFICE, KASARGOD

PETITIONER:

SHYAMSUNDAR, AGED 63 YEARS,
S/O. AMBU MANIYANI,
MUTHIYAKKAL, PANAYAL VILLAGE,
KASARGOD DISTRICT.

BY ADV. SRI.A.ARUNKUMAR

RESPONDENTS:

1. STATE OF KERALA - REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERANAKULAM - 682 031.
2. THE STATION HOUSE OFFICER,
(CR. NO.143 OF 2015 OF HOSDURG EXCISE RANGE,
KASARAGOD DISTRICT) PIN: 671 314.

R BY SMT. V. H. JASMINE, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
29-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. JYOTHINDRANATH, J.

B.A. No. 8408 of 2015

Dated this the 29th day of December, 2015.

ORDER

This is an application filed under Section 439 of the Code of Criminal Procedure.

2. When the petition came up for hearing, the learned counsel for the petitioner has submitted before me that the allegation is that the petitioner was in possession of 1.8 litres of Indian Made Foreign Liquor. It is the submission that in Kerala, for possessing three litres of Indian Made Foreign Liquor, no permit is necessary. It is also the submission by the counsel for the petitioner that the allegation is that it was for sale only in Karnataka. It is the further submission that it was an opened bottle and the allegation is not correct.

3. I heard the learned Public Prosecutor.

4. The prosecutor submitted before me that even though the counsel for the petitioner submitted that it is Indian Made Foreign Liquor, it cannot be treated as Indian Made Foreign Liquor as per the Rules framed under the Kerala Abkari Act. It is the submission that it can only be treated as illicit liquor or it is a liquor imported

from outside Kerala. It is also submitted that the burden is upon him to prove that it is not illicit liquor, but Indian Made Foreign Liquor purchased from Kerala.

5. After considering the rival contentions and considering the quantity of the liquor involved, I am of the opinion that bail can be granted at this stage. Accordingly, the petitioner shall be released on bail on executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the court below. The petitioner shall appear before the Investigating Officer on all Saturdays and Wednesdays in between 10 am and 12 noon for a period of one month and thereafter on all Saturdays for a period of one month. The petitioner shall not commit similar offences during the bail period. The petitioner shall co-operate with the investigation. The petitioner shall not influence or intimidate the witnesses.

With the above conditions, the Bail Application is allowed.

sd/- K. P. JYOTHINDRANATH, JUDGE.

