

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.MC.No. 1552 of 2015 ()

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CRMP. NO.369/2013 OF SPECIAL COURT (NDPS ACT CASES), VATAKARA.
CRIME NO. 7/2013 OF EXCISE RANGE, THALASSERRY.
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PETITIONER/PETITIONER:

**MUNEER, AGED 30 YEARS,
S/O.USMAN, THAIKKANDY HOUSE,
THIRUVANGAD AMSOM, CHALIL DESOM,
TEMPLE GATE, THALASSERY, KANNUR.**

BY ADV. SMT.K.LASITHA.

RESPONDENT/RESPONDENT:

**INSPECTOR OF EXCISE,
EXCISE RANGE OFFICE, THALASSERY,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.S. HYMA.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 26-03-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

rs.

P.UBAID, J.
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**Crl.M.C No.1552 of 2015**  
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Dated this the 26th March, 2015

ORDER

The petitioner herein claims to be the registered owner of a motor cycle seized by the Excise Inspector, Thalassery in Crime No.7 of 2013 registered under Section 18 (c) of the Narcotic Drugs and Psychotropic Substances Act. The crime was registered by the Excise Inspector on the basis of seizure of 650 gms of opium from the possession of the accused therein. He was found using the motor cycle in question for selling opium at different places to different persons. The petitioner made an application for interim custody of the vehicle under Section 451 Cr.P.C before the learned Special Judge (NDPS Act Cases) Vadakara. The learned Special Judge allowed the request on certain conditions. One condition is that the petitioner shall deposit ₹ 20,000/- in court, and the other is he shall produce bank guarantee for ₹ 35,000/-. The petitioner is aggrieved by the conditions. His case is that the vehicle was not in fact used by the accused with the knowledge or

permission of the petitioner. Being the owner of the vehicle, he cannot find light excuse and justify himself saying that the accused, who is suspected to be a person habitually involving such offences, used the vehicle without his knowledge and permission. However, in the particular facts and circumstances where the value of the motorcycle must be less than ₹ 75,000/-, I feel the necessity of appropriate modification in the second condition. I feel that the amount to be deposited can be enhanced to ₹ 25,000/- and the other condition to furnish bank guarantee can be set aside on a further condition that the petitioner shall execute a bond with two solvent sureties for ₹ 25,000/- each .

In the result, this petition is allowed in part as follows:

(a) The first condition imposed by the court below as per the order dated 5.11.2013 in Crl.M.P. No.369 of 2013 will stand modified to the effect that ₹ 25,000/- shall be deposited by the petitioner in the court below.

(b) The second condition directing the petitioner to furnish bank guarantee for ₹

35,000/- will stand set aside on a further condition that he shall execute a bond with two solvent sureties for ₹ 25,000/- to the satisfaction of the trial court.

(c) The other conditions imposed by the court below will continue in force.

Sd/-
P.UBAID
JUDGE

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/True copy/

P.S to Judge