

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

Crl.MC.No. 2547 of 2015 ()

**C.P. NO. 38/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT, ADOOR
O.R. NO. 169/2013 OF ADOOR EXCISE RANGE OFFICE , PATHANAMTITTA**

PETITIONER(S)/SOLE ACCUSED:

**THANKAMANI AGED 48 YEARS
W/O.UNNI, PLAVILA MELETHIL, MARUTHIMOODU
MANOOR, ENADIMANGALAM, ADOOR.**

**BY ADVS.SRI.ARUN.B.VARGHESE
SRI.JAYKAR.K.S.
SMT.M.B.DHANYA BABU**

RESPONDENT(S)/STATE AND THE COMPLAINANT:

**1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, 682031.**

**2. THE EXCISE INSPECTOR
ADOOR RANGE, 689101.**

BY THE PUBLIC PROSECUTOR SMT. M.T. SHEEBA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24-04-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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K.RAMAKRISHNAN, J

Crl.M.C.No.2547 of 2015

Dated this the 24th day of April 2015

ORDER

This is an application filed by the petitioner, who is the accused in C.P.No.38/2015 of Judicial First Class Magistrate's Court, Adoor for issuing a direction to the learned Magistrate, under Section 482 of the Code of Criminal Procedure (hereinafter called the Code).

2. It is alleged in the petition that the petitioner is the sole accused in O.R. No.169 of 2013 of Excise Range Adoor and she was charge sheeted alleging offence under Section 55(i) of the Abkari Act, on the allegation that on 10.8.2013 the second respondent alleged to have found her selling foreign liquor and on seeing the excise party she ran away from the place. The police

party have not arrested her. It appears that final report has been filed and now it is pending as C.P.No.38/2015 before the Judicial First Class Magistrate's Court, Adoor. The petitioner apprehends that if she surrenders before the court below, she is likely to be remanded and the application for bail will not be considered. So the petitioner has no other remedy except to approach this court seeking the following relief:

“For these and other grounds urged at the time of hearing it is prayed that this honourable court may be kind enough to direct the learned Judicial First Class Magistrate Adoor, Pathanamthitta to consider and pass orders on the bail application of the petitioner on the date of surrender itself.”

3. Considering the nature of relief sought in the petition, this court felt that this petition can be disposed of today itself, after hearing the learned counsel for the petitioner and the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that if the

petitioner surrenders before the court below, the court below will not consider the bail application and she will be remanded to custody and unless a direction is given from this court, her bail application will not be considered on the same day itself.

5. The application is opposed by the learned Public Prosecutor.

6. It is an admitted fact that the petitioner has been arrayed as an accused in O.R. No.169/2013 of Excise Range, Adoor, which is now pending as C.P. No.38/2015 on the files of Judicial First Class Magistrate's Court, Adoor. The apprehension of the petitioner that if she surrenders before the court below and moves for bail her bail application will not be considered and she will be remanded to custody is, without any basis, as this court has in several matters of this nature expressly observed that the Presiding Officers of the Criminal courts are duty bound to consider and dispose of the bail applications as far as possible on the date of application itself on

their surrender. So, there is no necessity to issue any direction, as such, as claimed in the petition. However, considering the apprehension raised in the petition, this court feels that this petition can be disposed of as follows.

If the petitioner surrenders before the Judicial First Class Magistrate's Court, Adoor and moves for bail in C.P. No.38 of 2015 (O.R. No.169 of 2013 of Excise Range, Adoor), the learned Magistrate is directed to consider and dispose of the bail application as far as possible, on the date of application itself after hearing the Assistant Public Prosecutor in charge of the case, in accordance with law.

With the said observations and directions, this Crl.M.C. is disposed of.

Sd/-
K.RAMAKRISHNAN, J,
JUDGE

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