

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Cr1.MC.No. 6321 of 2015 ()

CRIME NO. 5/2015 OF KOLLAM EXCISE CIRCLE OFFICE, KOLLAM

PETITIONER(S)/2ND ACCUSED :

SHABEER, AGED 36 YEARS,
S/O. AMIRJAN, NIHAZ MANZIL, PALLIMUKKU,
MANKADU CHERY, VADAKKEVILA VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHAN LAL

RESPONDENT(S)/COMPLAINANT:

STATE
REPRESENTED BY THE EXCISE CIRCLE INSPECTOR,
KOLLAM DISTRICT, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

:2:

Crl.MC.No. 6321 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

:

ANNEXURE A1 : COPY OF THE ORDER DTD.11.9.2015 OF THE SESSIONS
COURT, KOLLAM IN CRIME NO.5/2015 OF EXCISE CIRCLE
OFFICE, KOLLAM.

RESPONDENT(S) ' EXHIBITS

:

NIL

// True Copy//

P.A. to Judge

SS

K. RAMAKRISHNAN, J.

Crl. M.C.No.6321 of 2015

Dated this the 23rd day of September, 2015

ORDER

This is an application filed by the 2nd accused in NDPS Crime No.5/2015 of Excise Circle Inspector Office, Kollam, for modifying the condition imposed by the court below by granting bail under Section 439(1)(b) and Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the petitioner was arrayed as 2nd accused in NDPS Crime No.5/2015 of Excise Circle Office, Kollam, alleging offences under Section 8C, 22C and 29 of NDPS Act, 1985. He surrendered on 17.03.2015 and thereafter he was remanded to custody and he was granted bail by the Sessions Court as per Annexure-A1 order imposing conditions inter alia that, he will have to produce solvent sureties, who shall be close relative and the relationship shall be certified by the Tahsildar or Village Officer

concerned. This condition is being challenged by the petitioner by filing this petition.

3. Heard the counsel for the petitioner Sri.B.Mohanlal and Smt.S.Hyma Public Prosecutor appearing for the State.

4. The counsel for the petitioner submitted that the relationship certificate will be given only to close blood relatives and his close relatives are not having properties, so he is not able to produce such certificate. When he filed an application showing the distant relatives, the officials are not issuing the certificate. So he is finding it difficult to get a certificate as ordered by the court below and thereby he is not able to get bail.

5. On the other hand, the application was opposed by the Public Prosecutor.

6. It is an admitted fact that the present petitioner was arrayed as 2nd accused in the above crime and he surrendered before the court on 17.03.2015 and he

was remanded to custody, thereafter as per Annexure-A1 order bail was granted to the petitioner along with first accused with conditions inter alia that they will have to execute a bond with two close relatives with certificate issued by the Tahsildar or Village Officer showing the relationship. Counsel for the petitioner also submitted that his close relatives are not having any properties and when he approached the authorities to issue relationship certificate in respect of his distant relatives having properties, the authorities are not inclined to grant such certificate, so he is finding difficult to get the certificate.

7. It is true that in certain cases court can insist for sureties who may be relatives of the accused, so as to ensure their presence during the later stage. But if the relatives are not having any properties, there will be difficult for the accused to get sureties of that nature and granting bail with such conditions sometimes may amount to denial of bail to them. Further there is no case for the

prosecution that the petitioner had involved in any other crime of similar nature and he was granted statutory bail as well. So under the circumstances, this court feels that, the condition can be modified as follows:

The petitioner can be granted bail on executing a bond for ₹1,00,000/- with two solvent sureties preferably from Kollam District to the satisfaction of the Sessions Judge, Kollam. The original order produced is directed to be returned to the petitioner by the registry, after substituting the same with a photocopy verified and certified by the office.

With the above direction and modification the petition is disposed of.

Sd/-

K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge