

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

Crl.MC.No. 7438 of 2015

**ORDER DATED 09-11-2015 IN CMP 2444/2015 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, NORTH PARAVUR
CRIME NO. 7/2015 OF NORTH PARAVUR EXCISE RANGE OFFICE, ERNAKULAM**
.....

PETITIONER(S)/ACCUSED:

**RAKESH, AGED 23 YEARS,
S/O SURESH BABU, ANDALATTU HOSUE, THATHAPILLY,
MANNAM, N.PARAVUR.**

BY ADV. SRI.K.S.RAJEEV (ALUVA)

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
THROUGH EXCISE OFFICER N. PARAVOOR, EXCISE RANGE,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
21-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A: TRUE COPY OF RC PARTICULARS.

ANNEXURE B: TRUE COPY OF APPLICATION FOR INTERIM CUSTODY.

**ANNEXURE C: IMPUGNED ORDER IN CMP NO.244/15 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT III, N. PARAVUR.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
CRL. M.C. No. 7438 of 2015
.....

Dated this the 21st day of December, 2015

ORDER

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

2. The petitioner has sought for the interim custody of the vehicle involved in Crime No.7/2015 of the North Paravur Excise Range, under Section 451 Cr.P.C. The vehicle involved is Bajaj Pulsar Motorcycle bearing Reg.No.KL-42 G 9639. A small quantity of ganja was seized from the possession of the petitioner as well as the tool box of the motorcycle.

3. The learned Public Prosecutor has pointed out that the vehicle is involved in an N.D.P.S. offence, and the same is liable to be confiscated and confiscation

proceedings have to be commenced. Whatever it is, it will take a long time to finalise the matter. In such circumstances, if the vehicle is kept idle, it will automatically get ruined, which will result in financial loss either to the Government or to the petitioner, as the case may be. In such a context, it is only just and proper in the interest of justice to release the vehicle to the interim custody of the petitioner, on conditions.

4. In the result, this CrI.M.C. is allowed and Annexure C order passed by the court below is quashed. The vehicle of the petitioner is hereby ordered to be released to the interim custody of the petitioner by the court below, on the following terms and conditions:-

(1) The petitioner shall execute a bond for ₹50,000/-, with two solvent sureties for the like sum each to the satisfaction of the court below.

(2) The petitioner shall furnish bank

guarantee for ₹40,000/-, from a nationalised bank, before the court below.

(3) The petitioner shall not make use of the vehicle for any illegal purpose.

(4) The petitioner shall produce the vehicle before any of the authorities or court, as and when called for.

(5) The petitioner shall not alienate or encumber the vehicle, without the prior permission of the court below.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge