

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

AND

THE HONOURABLE MR.JUSTICE SHAJI .P.CHALY

THURSDAY, THE 2ND DAY OF APRIL, 2020/13TH CHAITHRA, 1942

B.A No. 2235 of 2020

(CRIME NO.39 OF 2020 OF BADIADKA EXCISE RANGE, KASARAGOD)

Petitioner/Accused

Ganesha.B., S/o. Nagappa Gowda, Aged45 years,
Ammajimoola Veetil, Derkaje Desom, Delampadi Village,
KasaragodeTaluk.

By Adv. Sri. T. G. RAJENDRAN

Respondents/Complainant and State

- 1 The Excise Range Officer, Badiadka Excise Range, Kasaragode 671 541.
2. The State of Kerala, Represented by the Public Prosecutor,
High Court of Kerala, Ernakulam-682031.

By Shri Suman Chakravarthy, Public Prosecutor

This Bail Application having come up for admission on 02/04/2020, the Court on the same day passed the following:-

A.K. JAYASANKARAN NAMBIAR & SHAJI P. CHALY, JJ.

BAIL APPLICATION NO.2235/2020

Dated this the 2nd day of April, 2020

O R D E R

Shaji P.Chaly, J.

The petitioner is the accused in Crime No.39/2020 of Badiadka Excise Range, Kasaragod District, indicted with the offences punishable under Sections 58 and 67B of the Abkari Act 1 of 1077. The allegation of the prosecution is that the petitioner was found in possession of 4.320 litres of Indian Made Foreign Liquor and he was arrested on 10/3/2020 and, thereafter, continuing in judicial custody. He seeks regular bail under Section 439 of the Code of Criminal Procedure.

2. Learned Public Prosecutor submitted that there is no objection in granting provisional bail by imposing suitable conditions in the wake of present emergent situation of COVID-19.

3. Heard the learned counsel appearing for the petitioner and the learned public prosecutor. We have gone through the records which are made available.

4. In the result, this application will stand allowed. The petitioner is granted provisional bail and we direct the Superintendent of the jail wherein, the petitioner is incarcerated to release him on bail on the petitioner executing a personal bond without sureties. The above order shall be subject to the following conditions:

(a) The petitioner shall furnish to the Jail Superintendent the permanent place of his abode and he shall undertake that he shall remain in quarantine for a period of 30 days from the date of this order. He shall also furnish his phone number and the phone number of his immediate relative. Before releasing the petitioner, the Superintendent of jail concerned shall verify the above details. The Superintendent of Jail shall also intimate the release of the petitioner to the SHO of the Police Station which has registered the crime.

(b) On being released from prison, the petitioner shall report before the jurisdictional police station and shall furnish a copy of the undertaking furnished before the Jail Superintendent. The SHO concerned shall ensure that the petitioner does not leave the premises where he has undertaken to remain in quarantine till such time the lockdown period continues in force, otherwise than for emergent situations, and exceptional reasons provided under the orders passed by Central and State Governments, for COVID-19 pandemic.

(c) The petitioner shall not tamper with the evidence or influence, persuade, threaten or coerce any prosecution witnesses in any manner whatsoever.

(d) The petitioner shall not commit any offence while on bail.

(e) On the expiry of 30 days ordered as above or within three days of the withdrawal of the lockdown by the government, whichever is earlier, the petitioner shall appear before the jurisdictional Court and seek regular bail. This provisional bail granted is on the basis of the present emergent situation also. However, if the accused is committing or attempting to commit any crime during the bail period, it will not deter the police or the jurisdictional court to take appropriate action in accordance with law.

(f) If the petitioner violates any of the conditions above, the Station House Officer may approach the jurisdictional Sessions Court and may move an application for cancellation of bail, which shall be considered and disposed of by the said court notwithstanding the fact that interim bail has been granted by this Court.

A.K. JAYASANKARAN NAMBIAR, JUDGE

SHAJI P. CHALY, JUDGE

ms/2/4/2020