



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 21ST DAY OF FEBRUARY 2025 / 2ND PHALGUNA, 1946

BAIL APPL. NO. 2356 OF 2025

CRIME NO.17/2025 OF KASARAGOD EXCISE RANGE OFFICE, KASARGOD

AGAINST THE ORDER/JUDGMENT DATED IN CMP NO.437 OF
2025 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,KASARAGOD

PETITIONER(S) /ACCUSED:

HARIPRASAD.N

AGED 32 YEARS

S/O. BABU POOJARI, CHENNIKKARA HOUSE, NULLIPADY
DESOM, KASARAGOD VILLAGE, KASARAGOD DISTRICT,
PIN - 671121

BY ADVS.

HEMALATHA

BINU GEORGE

AVANI P.S.

RESPONDENT(S) /STATE:

STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, PIN - 682031

BY ADV.

SRI.G.SUDHEER, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.02.2025, ALONG WITH Bail Appl..2359/2025, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 21ST DAY OF FEBRUARY 2025 / 2ND PHALGUNA, 1946

BAIL APPL. NO. 2359 OF 2025

CRIME NO.214/2024 OF KASARAGOD EXCISE RANGE OFFICE,
KASARGOD

AGAINST THE ORDER/JUDGMENT DATED IN CMP NO.503 OF
2025 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, KASARAGOD
PETITIONER(S) /ACCUSED:

HARIPRASAD. N
AGED 32 YEARS
S/O. BABU POOJARI, CHENNIKKARA HOUSE, NULLIPADY
DESAM, KASARAGOD VILLAGE, KASARAGOD DISTRICT.,
PIN - 671121

BY ADVS.
HEMALATHA
BINU GEORGE
AVANI P.S.

RESPONDENT(S) /STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031

BY ADV.
SRI.NOUSHAD K.A., SENIOR PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
21.02.2025, ALONG WITH Bail Appl..2356/2025, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:



P.V.KUNHIKRISHNAN, J

B.A.Nos.2356 & 2359 of 2025

Dated this the 21st day of February, 2025

O R D E R

These Bail Applications are filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita. These bail applications are filed by the same person and therefore, I am disposing of these bail applications by a common order.

2. Petitioner is the accused in Crime Nos.17/2025 and 214/2024 of Kasaragod Excise Range Office. The above cases are registered against the petitioner alleging offences punishable under Sections 58 and 55(i) of the Kerala Abkari Act.

3. Crime No.17/2025 is registered alleging that the petitioner was found in possession of 12.96 liters of Indian Made Foreign Liquor and Crime No.214/2024 is registered alleging that the petitioner was found in possession of 2.88 liters of Indian Made Foreign Liquor. Hence it is alleged that the



accused committed the above said offences. The petitioner was arrested on 28.01.2025 in connection with Crime No.17/2025 and his arrest was recorded in connection with Crime No.214/2024 on 04.02.2025.

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

5. The counsel appearing for the petitioner submitted that the petitioner is in custody from 28.01.2025. The counsel submitted that the petitioner is ready to abide any conditions if this Court grant him bail.

6. The Public Prosecutor opposed the bail application. The Public Prosecutor submitted that the petitioner is involved in yet another case, in which also the allegation is the same.

7. This Court considered the contentions of the petitioner and the Public Public Prosecutor. Admittedly, the petitioner is in custody from 28.01.2025 onwards. Indefinite incarceration of the petitioner is not necessary. Considering the facts and circumstances of the case, I think the petitioner can be



released on bail after imposing stringent conditions.

8. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in **Chidambaram. P v. Directorate of Enforcement [2019 (16) SCALE 870]**, after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

9. Moreover, in **Jalaluddin Khan v. Union of India [2024 KHC 6431]**, the Hon'ble Supreme Court observed that:

"21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the



law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution." (underline supplied)

10. In **Manish Sisodia v. Directorate of Enforcement [2024 KHC 6426]**, also the Hon'ble Supreme Court observed that:

"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well - settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions



thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".

11. Considering the dictum laid down in the above decision and considering the facts and circumstances of these cases, these Bail Applications are allowed with the following directions:

1. Petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.
2. The petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from



disclosing such facts to the Court or to any police officer.

3. Petitioner shall not leave India without permission of the jurisdictional Court.
4. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
5. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above conditions.

Sd/-

P.V.KUNHIKRISHNAN, JUDGE

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