

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.Q.BARKATH ALI

FRIDAY, THE 31ST DECEMBER 2010 / 10TH POUSHA 1932

Bail Appl.No. 8726 of 2010()

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CMP.3455/2010 of J.M.F.C.,PEERUMEDU  
CRIME NO. 615 OF 2010 OF PEERMADE POLICE STATION

PETITIONER/ACCUSED

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VASUDEVAN, S/O.KITTAN,  
KOYIKKALETHU VEEDU, ELAPPARA KARA,  
ELAPPARA VILLAGE.

BY ADV. SRI.BIJU .C. ABRAHAM

RESPONDENT(S): COMPLAINANT

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STATE OF KERALA,  
REP. BY THE S.H.O.,  
PEERMADE, IDUKKI DISTRICT,  
THROUGH PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. C.M.NAZAR

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD  
ON 31/12/2010, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**P.Q. BARKATH ALI, J.**

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**B.A. No. 8726 of 2010**

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**Dated this the 31<sup>st</sup> day of December, 2010**

**ORDER**

This is a bail application filed by the accused in Crime No.615 of 2010 of Peermade Police Station under section 439 of the Cr.P.C.

2. The allegation against the petitioner is that on December 18, 2010 at about 11.30 p.m. he was found in possession of 1475 ml. of Indian Made Foreign Liquor at his shop at Elappara for the purpose of sale and that thereby committed offences punishable under sections 55(a) & (i) of the Abkari Act.

3. The petitioner was arrested from the spot and he is in remand thereafter. The learned Magistrate dismissed his bail application finding that if he was released on bail, he will abscond and intimidate the witnesses.

4. It is alleged in the petition that the petitioner is aged 72 and he is suffering from carcinoma and that if he is released on bail, he is prepared to abide by any conditions

that may be imposed by this Court.

5. Heard learned counsel for the petitioner and the learned Public Prosecutor. This petition is opposed by the learned Public Prosecutor.

6. The petitioner is aged 72 and he is suffering from Carcinoma Buccal Mucosa as revealed from a certificate produced by the petitioner as Annexure-2. The prosecution has no case that there is any other similar case pending against him. Further investigation of this case is almost over and main witnesses have already been questioned. That apart, the permissible quantity of Indian Made Foreign Liquor that a person can possess for own use is 3.5 litres as provided in S.R.O. No.127/99 dated 5-2-199, the notification issued by the State Government under sections 10 and 13 of the Abkari Act. Therefore, I am of the view that the petitioner can be released on bail, but subject to conditions.

7. In the result, the petition is allowed. The petitioner shall be released on bail on his executing a bond for

Rs.25,000/- with two solvent sureties for like sum each to the satisfaction of the Judicial Magistrate of the First Class-

I, Peermade on the following conditions:-

- 1) The petitioner shall report before the Investigating Officer on all Mondays between 10 a.m and 11 a.m.
- 2) The petitioner shall not commit similar offence while on bail.
- 3) Petitioner shall co-operate with the investigation and shall not intimidate the witnesses.
- 4) If the petitioner violates any of the conditions mentioned above, lower court can cancel his bail.

**P.Q. BARKATH ALI, JUDGE.**

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