

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

Bail Appl..No. 5092 of 2015 ()

CRIME NO. 45/2015 OF PALA EXCISE RANGE OFFICE, KOTTAYAM

PETITIONER/ACCUSED NO. 2 IN THE CRIME :

**RAJESH P. BALAKRISHNAN
AGED 36 YEARS, SON OF BALAKRISHNAN P.R.,
'SOURA', KUTTILLAM, MEENACHIL P.O.,
PALA, KOTTAYAM.**

BY ADV. DR. K.P. PRADEEP

RESPONDENTS/COMPLAINANT :

- 1. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, OFFICE OF THE ADVOCATE GENERAL
HIGH COURT, KOCHI - 682 031.**
- 2. EXCISE INSPECTOR
RANGE OFFICE, PALA, KOTTAYAM DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, OFFICE OF THE ADVOCATE GENERAL
HIGH COURT, KOCHI - 682 031.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

A.HARIPRASAD, J.

B.A.No.5092 of 2015

Dated this the 31st day of August, 2015

O R D E R

Application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioner is the second accused in Crime No.45 of 2015 of Excise Range Office, Pala registered for the offences punishable under Sections 8(1) & (2) and 55 (g) of the Abkari Act.

3. The prosecution case is that on 03.06.2015 at about 07.45 p.m., the Excise Inspector, Pala seized 1.9 liters of illicit arrack and 70 liters of wash and also utensils for manufacturing illicit arrack from a building in Kozhuvanal Grama Panchayat, Meenachil Taluk. The prosecution would contend that the first accused, brother of the petitioner, was arrested from the house while he was engaged in manufacturing illicit arrack. The prosecution would further contend that the petitioner is also an active participant in the illicit distillation though he was not found in the house at the time of detection.

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

5. I have perused the case diary. Learned counsel for the petitioner would contend that the petitioner is totally innocent and he is falsely implicated in this case due to enmity of his family members. It is also submitted that the petitioner is residing 10 Kms away from the house where the alleged detection of the offence was made. On perusal of the case diary, I could see that the house in which the distillation was found happening was not neatly kept and it was used for this purpose. The complicity of the petitioner cannot be completely ruled out from the materials in the case diary.

6. Learned counsel for the petitioner submitted that the petitioner is an acute Pancreatitis patient and he had been admitted to Amrita Institute of Medical Sciences and Research Centre. Treatment records are also produced for perusal. On the basis of these documents, it has been submitted that the petitioner was never involved in any such activity as he was advised not to take liquor.

Considering the materials in the case diary, I am of the view the petitioner is not entitled to get anticipatory bail. However, the petitioner is free to surrender before the court having jurisdiction in this matter within a period of 'two weeks' and move for regular bail. In that event, the court below shall consider all the materials and pass an order in accordance with law, if possible on the date of surrender itself.

Sd/-

A.HARIPRASAD, JUDGE.

AS

/True Copy/

P.A. to Judge