

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Bail Appl..No. 2163 of 2015 ()

CRIME NO. 104/2015 OF THIRUNELLY POLICE STATION, WAYANAD DISTRICT

APPLICANT/ACCUSED:

**MALYA @ PIYYANNA,S/O VELU, AGED 65 YEARS,
GUNDUIKKAL VEEDU, H.D.KOTTA TALUK,
KARNATAKA.**

**BY ADVS.SRI.KRISHNA PRASAD. S
SRI.B.SIBI
SRI.NOBEL RAJU**

RESPONDENT/COMPLAINANT/STATE :

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
REPRESENTING THE SUB INSPECTOR OF POLICE,
THIRUNELLY POLICE STATION.**

BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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K. RAMAKRISHNAN, J.

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B.ANo.2163 of 2015
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Dated this the 28th day of April, 2015.

O R D E R

The accused in Crime No.104/2015 of Thurunelly police station has filed this application for regular bail under section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 5.4.2015 at about 3.45 p.m the accused was found to be in possession of 10 bottles Indian made foreign liquor of 180 ml each and found engaged in sale of the same and thereby he had committed the offences under sections 55(a) and (i) of the Abkari Act.

3. Heard the learned counsel for the petitioner, the learned Public Prosecutor and perused the case diary file.

4. The learned counsel for the petitioner submitted that the petitioner has not committed any offence and he is innocent of the same. He is in custody from 6.4.2015 onwards and no offences under sections 55(a) and (i) of the Abkari Act have been attracted. He is aged 65 years and he has no other criminal background.

5. The application was opposed by the Public Prosecutor on the ground that investigation is not over. Heard both sides and perused the records.

6. It is seen from the records that the petitioner was arrested by Thirunelli police on 5.4.2015 at 3.45 p.m along with ten bottles of Indian made foreign liquor intended to be sold in Karnataka only with some cash and a glass. He is in jail from that day onwards. The investigation is almost over. Most of the witnesses are police officials. So the apprehension that that if he is released on bail, he is likely to influence the witnesses has no force. Further the prosecution has no case that the petitioner had involved in similar case of similar nature earlier.

7. The apprehension of the prosecution that if he is released on bail, he is likely to abscond as he belongs to Karnataka can be removed by imposing stringent conditions. Considering the age of the accused and also the period of detention, this Court feels that bail can be granted to the petitioner with some stringent conditions. So, the application is allowed with the following conditions.

i. The petitioner shall be released on bail on executing a bond for Rs.50,000/- with two solvent sureties for the like sum

each to the satisfaction of the Judicial First Magistrate Court-II, Mananthavady and one of the sureties must be from Wayanad district.

ii. The petitioner shall appear before the investigating officer on the last Saturday of every month between 9 a.m and 10 a.m till the final report is filed.

iii. The petitioner shall appear before the investigating officer for the purpose of interrogation in connection with the above crime as and when required in writing to do so till the final report is filed.

iv. The petitioner shall not intimidate or influence the witnesses.

v. The petitioner shall not leave Wayanad district without getting prior permission from Judicial First Class Magistrate Court-II, Mananthavady till the final report is filed. He shall furnish his address in Wayanad district to the investigating officer for the purpose of contacting him in connection with the investigation.

With the above conditions, this application is allowed.

Sd/-

K. RAMAKRISHNAN, JUDGE.

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/true copy/

P.S to Judge

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