

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Bail Appl..No. 3930 of 2015 ()

CRIME NO. 456/2015 OF KUTHUPARAMBA POLICE STATION, KANNUR DISTRICT

PETITIONER/ACCUSED NO.2 :

**RAJEEVAN V.V.,
S/O.NANDINI, AGED 43 YEARS
RESIDING AT PRAJESH NIVAS
AYITHARAMAMBRAM, THALASSERY TALUK,
KANNUR DISTRICT.**

BY ADV. SRI.CIBI THOMAS

RESPONDENTS/COMPLAINANT/STATE :

- 1. SUB INSPECTOR OF POLICE
KUTHUPARAMBA POLICE STATION,
KANNUR DISTRICT- 670 643.**
- 2. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM- 682031.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

K. ABRAHAM MATHEW, J.

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B.A.No. 3930 of 2015

Dated this the 23rd day of July, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is alleged to have committed the offence under Section 55(a) of the Abkari Act. It is alleged that he along with the co-accused was found transporting 125 bottles Indian Made Foreign Liquor, which was meant to be sold only in Pondicherry State.

3. Heard.

4. Learned counsel submits that there is absolutely no evidence to connect the accused with the crime. According to the prosecution, apart from the driver of the vehicle, who is the first accused there was another man in it. He allegedly ran away. The prosecution would say that he is the petitioner who is shown as the second accused. The first accused who was caught red handed gave a statement to the Police immediately after his arrest. He told the Police that it was one Babu of Chirakkara who ran away from the place of occurrence. Now, the prosecution says that Babu is the alias name of the petitioner, whose real

name is Rajeevan. But the case diary does not reveal that the Investigating Officer could collect any evidence in support of the said allegation. So, I am compelled to grant the prayer of the petitioner.

In the result, this application is allowed.

- 1)The petitioner shall be released on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only)with two solvent sureties each for the like sum if he is arrested by the Police in connection with this case.*
- 2)The petitioner shall surrender his passport before the lower court concerned or if he does not have one, he shall file an affidavit to that effect within five days of his release.*
- 3)He shall not leave India without the previous permission of the court of enquiry or trial court as the case may be.*
- 4)He shall appear before the Investigating Officer for interrogation if he is so required by him in writing. If necessary he shall subject himself to Test Identification Parade. There shall not be any complaint on his part that as he was released on bail the result of the Test Identification Parade cannot be accepted.*
- 5)If the Investigating Officer collects evidence to prove that it is the petitioner who ran away, he may file an application before the learned Magistrate concerned for*

cancellation of the bail.

6)He shall not intimidate or attempt to influence the witnesses.

7)He shall not destroy or tamper with evidence.

If the petitioner surrenders before the Magistrate this order is not applicable and the learned Magistrate may pass appropriate orders.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.

Sd/-

**K. ABRAHAM MATHEW,
JUDGE**

DST

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P.A. To Judge