

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V**

**THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937**

**Bail Appl..No. 5767 of 2015**  
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**CRIME NO. 35/2015 OF MANNARKKAD EXCISE RANGE OFFICE, PALAKKAD**  
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**PETITIONER(S):**  
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**MANOHARAN @ UNNI, AGED 42 YEARS,  
S/O.KRISHNAN, KANJIRAMANNA HOUSE, KACHERIPARAMBA,  
KOTTOPADAM P.O., MANNARKKAD TALUK, PALAKKAD DISTRICT.**

**BY ADV. SRI.P.JAYARAM**

**RESPONDENT(S):**  
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**STATE OF KERALA,  
REPRESENTED BY THE EXCISE INSPECTOR  
THROUGH PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
15-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**MSV/**

**RAJA VIJAYARAGHAVAN.V. J**

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B.A.5767 of 2015  
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Dated 15<sup>th</sup> October, 2015  
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**ORDER**

- 1.This petition is filed u/s 438 of the Code of Criminal Procedure.
- 2.The petitioner is the sole accused in crime No.35 of 2015 of Mannarkkad Excise Range, Palakkad District. The aforesaid crime has been registered u/s 8(1)(2) and 55(g) of the Abkari Act.
- 3.The case of the prosecution is that on 23.3.2015 at 6.30 pm, the petitioner was seen distilling arrack in a shed situated between his house and his ancestral home. The Excise officials had seized 30 litres of wash and also two litres of arrack from the said premises.
- 4.I have heard the learned counsel appearing for the petitioner as well as the learned Public Prosecutor.

5.The learned counsel for the petitioner submits that the earliest records reveal that the petitioner was not caught red handed. It is further pointed out that crime was registered as early as on 23.3.2015 and as the seizure has already been effected, there is no need for any custodial interrogation. The learned Public Prosecutor has submitted that the petitioner is involved in another crime as well and this is not a fit case wherein the petitioner can be granted an order of pre-arrest bail.

6.After hearing the rival submissions, the nature and gravity of the allegations and the antecedents of the petitioner, I am of the considered view that the petitioner is not entitled to the relief sought for in this petition. In the result, this bail application is dismissed.

7.However, the petitioner, if he so desires or is so advised, may surrender before the Investigating Officer within ten days from today and in such case, the

Investigating Officer shall interrogate the petitioner, effect recovery if any, and conduct necessary investigation and thereafter produce the petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the petitioner can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor .

The Bail application is disposed of as above.

Sd/-

**RAJA VIJAYARAGHAVAN.V.**  
**Judge**

MrCS

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P.S. To Judge