

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Bail Appl..No. 5980 of 2015

CRIME NO. 928/2015 OF PALODE POLICE STATION , THIRUVANANTHAPURAM

PETITIONER(S)/ACCUSED I (IN CUSTODY) :

**PRADEEP, AGED 43 YEARS,
S/O.VISWAMBHARAN, AKHLYA VILASOM, ALUMKUZHY,
KURUPUZHA VILLAGE.**

BY ADV. SRI.A.RAJASIMHAN

RESPONDENT(S)/STATE :

**STATE OF KERALA,
THROUGH THE SUB INSPECTOR OF POLICE,
PALODE POLICE STATION, THIRUVANANTHAPURAM,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 01-10-2015, ALONG WITH BA.NO.5982 OF 2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

A.HARIPRASAD, J.

B.A. Nos.5980 and 5982 of 2015

Dated this the 1st day of October, 2015

COMMON ORDER

B.A.No.5980 of 2015 is under Section 439 of the Code of Criminal Procedure and B.A.No.5982 of 2015 is under Section 438 of the Code of Criminal Procedure.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor. I have carefully perused the case diary.

3. Prosecution case, in short, is that on 05.09.2015 at about 14.45 hours police officers attached to the Palode Police Station while on patrol duty received a reliable information that illicit distillation of arrack was happening in the house of the petitioner in B.A.No.5982 of 2015. They went to the informed place and found the petitioner in B.A.No.5980 of 2015 (first accused) in possession of 750 ml. of arrack. They also detected the implements usable for distillation of arrack. The materials in the case diary prompted the investigating officer to implicate the second accused also in the crime.

4. Learned counsel for the petitioners submitted that the second accused has no connection with the incident. He is a police man working in the SAP Camp, Thiruvananthapuram. A document is produced to show

that from 10.00 a.m. On 05.09.2015 to 10.00 a.m. On 06.09.2015 he was on duty in the Camp. According to the learned counsel for the petitioners, the half finished house was taken care of by his brother who is the first accused in the case. The first accused was arrested on 05.09.2015.

Considering the quantity of illicit arrack involved in the case and the fact that the first accused is not involved in any other crime earlier, bail is granted to him. Insofar as the plea for anticipatory bail by the second accused is concerned, the materials in the case diary do not prompt me to grant anticipatory bail to him especially when the stipulations in Section 41A of the Abkari Act are considered. Hence the following order:

- i. Petitioner in B.A.No.5980 of 2015 (first accused in Crime No.928 of 2015 of Palode Police Station) shall be released on bail on executing a bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the Magistrate having jurisdiction.
- ii. The sureties shall produce documents to establish their identity and solvency.
- iii. The petitioner shall appear before the Investigating Officer on all Mondays and Thursdays between 10.00 and 11.00 a.m until final report is filed.
- iv. The petitioner shall not indulge in any offence while on

bail.

v. The petitioner shall not influence or intimidate the witnesses or meddle with the investigation in any manner.

If any of the above conditions is breached by the petitioner, the learned Magistrate is free to cancel bail without referring the matter to this Court.

Insofar the petitioner in B.A.No.5982 of 2015 (second accused in Crime No.928 of 2015 of Palode Police Station) is concerned, in the event he surrenders in one week before the investigating officer, he shall be questioned and produced before the Magistrate having jurisdiction and his application for bail shall be considered by the court below on merits as expeditiously as possible. If the petitioner does not surrender before the investigating officer within the said time, the investigating officer is free to arrest him, as if no order is passed in this case.

A. HARIPRASAD, JUDGE.

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