IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

Bail Appl..No. 5989 of 2014 ()

OR. NO. 163/2014 OF ADOOR EXCISE RANGE, PATHANAMTHITTA DISTRICT.

.....

PETITIONER/ACCUSED:

VIJAYA KUMAR G., AGED 58 YEARS,
S/O.LATE GOPALA PILLAI, NAMBU MADAM,
ARUKALIKKAL EAST, VAYALA POST,
PATHANAMTHITTA.

BY ADVS.SRI.S.RAJEEV,
SRI.K.K.DHEERENDRAKRISHNAN.

RESPONDENTS/STATE:

----

1. **STATE OF KERALA,**
   REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM-682 031,
   (OR NO.163/2014 OF ADOOR EXCISE RANGE,
   PATHANAMTHITTA DISTRICT).

2. **EXCISE INSPECTOR, ADOOR EXCISE RANGE,**
   PATHANAMTHITTA DISTRICT- 691 523,
   (OR NO. 163/2014 OF ADOOR EXCISE RANGE,
   PATHANAMTHITTA DISTRICT).

BY PUBLIC PROSECUTOR SRI.GITHESH. R.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

rs.

SUNIL THOMAS, J.

- - - - - - - - - - - - - - - - - - - -

B.A. No.5989 of 2014

- - - - - - - - - - - - - - - - - - - -

Dated this the 25 th day of June, 2015

O R D E R

The applicant stands accused in O.R. No.163/2014 of Adoor Excise Range for an offence punishable under Section 58 of the Abkari Act.

2. The allegation is that the house of the applicant, who was the senior officer of a bank, was raided by the CBI on 1/8/2014 at 9.20 a.m. for alleged offence under the provisions of Corruption Act. In the course of raid, eight liters of Foreign Made Foreign Liquor was found in his house. The excise party was informed, who after conducting the necessary formalities including the seizure of the contra band, registered the present crime. Apprehending the arrest, the accused have approached this Court seeking pre arrest bail.

3. Heard the learned Public Prosecutor and the counsel for the petitioner. Perused the records.

4. The learned counsel for the petitioner vehemently contended that the seizure of FMFL was a chance recovery in the

course of search by the CBI for the alleged offence under the provisions of the Corruption Act. It was contended that the case of FMFL stands on a different footing and the offence under Section 58 is basically an offence of breach of fiscal provision for unlawfully importing, transportation or possession of the illicit liquor and according to him, it was essentially to prevent illicit import of liquor. The learned counsel further contended that it has to be treated on a different footing than the other abkari offences.

5. Without going into the merits of the contentions, it is evident that search and recovery was effected along with the preparation of the contemporaneous documents. Nothing essential remains for the purpose of investigation since substantial part of the investigation is completed with the search, seizure and preparation of the contemporaneous documents. Further, a period of more than 10 months have elapsed since the registration of the crime. The excise party does not have a case that he is absconding. The learned counsel for the petitioner contends that even now he is still working as the officer of the Bank.

6. In the above circumstances, I feel that custodial interrogation of the accused may not be warranted and bail can be granted to the petitioner subject to the following conditions:

i). The petitioner shall appear before the Investigating Officer on 1/7/2015 between 9 and 10 a.m.. He shall undergo interrogation and in the event of his arrest, he shall be released on bail on he executing a bond for a sum of Rs.40,000/- (Rupees Forty Thousand only) with two solvent sureties for the like sum each.

ii). The petitioner shall co-operate with the investigation and shall not in any manner interfere with the investigation.

The petition is allowed accordingly.

Sd/-

SUNIL THOMAS
Judge

dpk

/True copy/ PS to Judge.