

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

Bail Appl..No. 8657 of 2014 ()

CRIME NO. 1510/2014 OF MANNUTHY POLICE STATION , TRISSUR

PETITIONER/ACCUSED:

K.S.SAJAN AGED 54 YEARS
S/O.KRISHNAN NAIR, CHAITHRAM NAGAR, MUTTEKKAD DESOM
VENGALLUR VILLAGE, VIZHINJAM, THIRUVANANTHAPURAM.

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

RESPONDENTS/STATE:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM-682031 (CRIME NO.1510/2014 OF MANNUTHY POLICE
STATION, THRISSUR DISTRICT).

2. STATION HOUSE OFFICER
MANNUTHY POLICE STATION
THRISSUR DISTRICT-680651 (CRIME NO.1510/2014 OF
MANNUTHY POLICE STATION
THRISSUR DISTRICT.)

BY PUBLIC PROSECUTOR: ADV.SRI.R GITESH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SUNIL THOMAS, J.

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B.A.No.8657 of 2014

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Dated this the 12th day of June, 2015

ORDER

The fourth accused in Crime No.1510 of 2014 of the Mannuthy Police Station for offences punishable under Section 16 of Kerala Kerosine Control Order, 1968 and Section 3 r/w Section 7(i)(a), (ii), (c) of Essential Commodities Act, 1955 is the applicant herein.

2. The prosecution case is that on 13.09.2014 at 1.30 p.m., 12,000 liters of kerosene transported in a tanker lorry was intercepted by the police attached to the Mannuthy Police Station. The first accused is the driver and the second accused is the person to whom the load was alleged to have been diverted with the connivance of the fourth accused, to whom the goods were despatched. The third accused is the owner of the lorry. The crux of the allegation against the fourth accused is that he had diverted kerosene allotted to him, for the purpose of unauthorised sale. Apprehending arrest, fourth accused has approached this Court seeking pre-arrest bail.

3. Heard. Perused the records.

4. According to the learned counsel for the accused, kerosene allotted to the fourth respondent was sent from the godown of the Indian Oil Corporation at Ernakulam to be delivered at Thiruvananthapuram but had reached Thrissur, without his knowledge and consent. Evidently, the very fact that the vehicle was intercepted near Thrissur which was not on the route to Thiruvananthapuram is indicative of the fact that it was diverted. The question that arises is whether in the above backdrop, the custodial interrogation of the fourth accused is warranted. The article involved has already been seized. It is on record that the first accused-driver has given the confession statement implicating the third accused and to a certain extent the fourth accused. The item was expected to be delivered at Chaithram depot owned by the fourth accused. There are materials on record to show that one person from Chaithram depot had met the first accused-driver and instructed him to deliver at the company of the third accused. There are materials to indicate that the load was diverted at the instance of the fourth accused or a person sent by him who allegedly carried the pass. The identity of that person has to be

revealed. Evidently, granting of pre-arrest bail to the applicant may prejudice the investigation.

5. Learned counsel for the petitioner submits that he may be permitted to surrender before the Investigating Officer. The fourth accused is free to surrender before the police and in the event of his surrender, after interrogation he may be produced before the jurisdictional magistrate at the earliest. In the event of him filing an application for bail, learned magistrate shall consider the bail application preferably on the same day, in accordance with law, untrammelled by any of the observations contained herein.

The bail application is disposed of accordingly.

Sd/-

SUNIL THOMAS
Judge

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