

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

Bail Appl..No. 9121 of 2014 ()

CRIME NO. 150/2014 OF PATHANAPURAM EXCISE RANGE OFFICE, KOLLAM

PETITIONER/ACCUSED :

**VIJAYAN, AGED 55 YEARS,
S/O.N.SUKUMARAN VAIDYAN, VINEESH BHAVANAM,
KANIYANKUZHI, MELILA, KOTTARAKKARA, KOLLAM DISTRICT.**

**BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.M.R.JAYAPRASAD
SRI.ANOOP.V.NAIR**

RESPONDENTS/STATE & COMPLAINANT :

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**
- 2. THE EXCISE INSPECTOR,
PATHANAPURAM EXCISE RANGE,
KOLLAM DISTRICT - PIN - 689 695.**

BY PUBLIC PROSECUTOR SMT. SALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

B. KEMAL PASHA, J.

.....
B.A. No.9121 of 2014
.....

Dated this the 5th day of January, 2015

ORDER

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Petition filed under Section 439 Cr.P.C.

2. Petitioner is the accused in Crime No.150/2014 of Pathanapuram Excise Range registered for the offences punishable under Sections 58B, 62, 55B and 64A of the Abkari Act.

3. The allegation against the petitioner is that on 17.12.2014 at 4.55 p.m., he was found preparing *Arishtam*, which is an intoxicating drink, at the fermentation room of Ayurveda Arishtam Preparation Centre belongs to the 2nd accused. The 2nd accused was having licence for manufacturing *Arishtam* and the licence was subsequently suspended. The allegation is that, the seals of the two containers, which were sealed by the excise officers earlier

when his licence was suspended, were tampered with and the contents were taken out and *Arishtam* was being prepared. The petitioner has been in custody for the period from 17.12.2014 onwards.

4. Heard learned counsel for the petitioner and the learned Public Prosecutor.

5. It seems that the 2nd accused was the licensee. If at all the seals were tampered with, the liability squarely falls on the 2nd accused. The petitioner, who was found engaged in preparing *Arishtam* at the said Centre of the 2nd accused, was only his employee. No criminal antecedents have been reported against the petitioner. The investigation of this case as far as the petitioner is concerned, is practically over. The continued detention of the petitioner in custody is not required for the continued investigation of this case. Having regard to the period undergone by the petitioner in custody, the present stage of investigation and the absence of criminal antecedents on his part, I am satisfied that the

petitioner can be enlarged on bail.

6. In the result, this Bail Application is allowed and the petitioner shall be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and subject to the following terms and conditions:-

(i) The petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays, commencing from 08.01.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioner shall not tamper with the evidence or influence witnesses.

(iii) The petitioner shall make himself available for interrogation as and when required by the Investigating Officer.

(iv) The petitioner shall not involve in any

BA.9121/2014

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offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/05/01

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PA to Judge