

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 15TH DAY OF MAY 2020 / 25TH VAISAKHA, 1942

BA NO.2790 OF 2020

(Crime No. 691 of 2020 of the Chalakudy Police Station, Pending before the JFCM, Chalakudy, Thrissur District)

Petitioner/2<sup>nd</sup> Accused

Jijo Jose, aged 38, S/o.Jose, Vezhaparambil House, Pazookkara Desom, Annallore village, Chalakudy Taluk, Thrissur District.

By Adv.Bitto.N.L., and Jayan Kuttichakku

State of Kerala/Complainant

1. The State of Kerala, rep. by the Public Prosecutor, High court of Kerala Ernakulam.
2. Sub Inspector of Police, Chalakudy Police Station, Chalakudy P.O., Thrissur District, Pin:680307

By P.P. Sri.B.JAYASURYA (SR) & C.K.PRASAD

**THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 15.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**ORDER**

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the accused in Crime No. 691 of 2020 of the Chalakudy Police Station. The above case was registered against the petitioner alleging offences punishable under Sections 8(1) & (2) of the Kerala Abakari Act.

3. The prosecution case is that the petitioner and another were found in possession of 750 ml of arrack. The first accused in this case was arrested and the petitioner ran away.

4. The learned counsel for the petitioner submitted that the petitioner was only a passenger in the car and he has no connection with the contraband seized. He further submitted that the petitioner has no criminal antecedents and he is ready to abide any conditions imposed by this Court if this Court grants him bail.

5. The learned Public Prosecutor seriously opposed the Bail Application. According to him, even though the quantity of the contraband seized was 750 ml., it is a prohibited item and

the petitioner ran away from the spot and that itself shows that he is involved in this case.

6. After considering the facts and circumstances of the case, I am not in a position to accept the contentions of the learned counsel for the petitioner. Section 41 A of the Abkari Act says that if the Public Prosecutor opposes the Bail Application, this Court can grant bail only if this Court is convinced that the petitioner has not committed the offence and he will not commit similar offence in future. I am not in a position to conclude at this stage that the petitioner has not committed the offence, as alleged. More over, the first accused is already arrested and he was released on bail by this Court today in B.A. No. 2678 of 2020. In such circumstances, I am not in a position to allow this Bail Application under Section 438 of the Code of Criminal Procedure of the second accused in the same case.

The Bail Application is dismissed.