

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 26TH DAY OF DECEMBER 2014/5TH POUSHA, 1936

Bail Appl..No. 9106 of 2014

CRIME NO. 1/2014 OF ANAKULAM FOREST RANGE OFFICE , IDUKKI

PETITIONERS/ACCUSED:

1. JAMES MATHEW, AGED 34 YEARS,
S/O. MATHEW, KOYIKKAL HOUSE, 6TH MILE KARA
MANKULAM, MANKULAM VILLAGE.
2. SABU, AGED 33 YEARS,
S/O KURIAN, MUNCLAPLAKKAL HOUSE, 6TH MILE KARA
MANKULAM, MANKULAM VILLAGE.
3. SUNNY, AGED 36 YEARS,
S/O JOSEPH, VELLANKALAYIL HOUSE, 6TH MILE KARA
MANKULAM, MANKULAM VILLAGE.

BY ADV. SRI.JOSWIN THAMBI KUNNATH

RESPONDENTS/STATE AND COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.
2. THE FOREST RANGE OFFICER
ANAKKULAM RANGE OFFICE, ANAKKULAM-685565.

BY PUBLIC PROSECUTOR ST.SEENA RAMAKRISHNAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26-12-2014,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K. RAMAKRISHNAN, J.

.....
B.A.No.9106 of 2014
.....

Dated this, the 26th day of December, 2014.

ORDER

Accused in O.R.No.01/2014 of Anakkulam Forest Range have filed this application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that the accused persons trespassed into the reserve forest and cut two trees which were fallen in the forest area and thereby, they have committed the offence punishable under Section 27(1)(e) iii and iv of Kerala Forest Act.

3. The Counsel for the petitioner submitted that the petitioners have not committed any offence and no loss has been caused to the Government on account of the alleged act and no live tree has been cut and removed from any alleged forest area and dried fallen dead tree was taken for the purpose of firewood by the petitioners. So, he prayed for allowing the application. It is further submitted that it is for any reason this court feels that they are not entitled to get anticipatory bail, then, a direction may be given to the magistrate to consider and dispose of the bail application on

the date of filing the application itself.

4. The application was opposed by the Public Prosecutor.

5. On going through the allegations, this court felt that it is not a fit case to invoke the power under Section 438 of Code of Criminal Procedure as it relates to removal of tree from the forest area. However, if the petitioners surrender before the court below, it is for the magistrate to consider and dispose of the bail application in accordance with law. So, if the petitioners surrender before the magistrate concerned and move for regular bail, then, the learned magistrate is directed to consider and dispose of the bail application as far as possible on the date of filing the application itself after hearing the Assistant Public Prosecutor of that court in accordance with law.

With the above direction and observation, the application is dismissed.

Sd/-
K. RAMAKRISHNAN, JUDGE.

Bb

[True copy]

P.A to Judge