

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

Bail Appl..No. 969 of 2015 ()

**CRIME NO. 6/2011 OF PERUVANNAMOOZHI FOREST RANGE OFFICE,
KOZHIKODE DISTRICT**

PETITIONER :

**MUJEEB T.M., AGED 23 YEARS,
S/O. MUHAMMED, THALAKKAT HOUSE,
MUTHUKAD P.O. PERAMBRA, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN**

RESPONDENTS :

**1. FOREST RANGE OFFICER
PERUVANNAMUZHY FOREST RANGE,
PERUVANNAMUZHY P.O., KOZHIKODE DISTRICT-673 528.**

**2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. SHIBU GEORGE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 02-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

B.KEMAL PASHA, J.

.....
Bail Appln.No.969 of 2015

.....
Dated this the 2nd day of March, 2015.

O R D E R

Petition under Section 438 Cr.P.C

2. Petitioner is the 5th accused in O.R No.6/2011 of the Peruvannamuzhy Forest Range for the offences punishable under Section 51 of the Wild Life (Protection) Act, 1972 and other offences including forest offences.

3. The allegation against the petitioner and other accused is that on 3-7-2011, they had trespassed into the reserve forest and hunted a Sambar deer and extracted its meat. It is alleged that A1 to A3 were found carrying the meat comes to 50 kg, and A4 and the petitioner were seen accompanying them.

3. Heard learned counsel for the petitioner and learned Additional DGP.

4. The learned counsel for the petitioner has point out

that through order dated 12-8-2011 in CrI.M.C No.2624/2011, A1 to A5 in the case were granted an opportunity to surrender before the court below on or before 31-8-2011 and in such case the learned Magistrate was directed to enlarge them on bail. The petitioner could not appear before the court below on that date as he had to depart to gulf countries in connection with his employment. This Court cannot stand with the the said order pointed out to me. At the same time, the court below may take into consideration the contents of the said order while considering the application seeking bail that may be filed by the petitioner. This is not a fit case wherein anticipatory bail can be granted.

5. Considering the seriousness of the allegations, I am of the view that the petitioner is not entitled to the discretionary relief of anticipatory bail. At the same time, when the other accused in the crime had availed of the opportunity to get them enlarged on bail, I am of the view that an opportunity can be granted to petitioner also to

surrender before the investigating officer and to co-operate with the investigation.

In the result, this bail application is dismissed. At the same time, if so advised, the petitioner may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioner, effect recovery if any, and conduct the investigation and produce the petitioner without delay before the concerned Judicial First Class Magistrate's Court, where the petitioner can move for bail. In such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

B.KEMAL PASHA, J.
(Judge)

smm

