

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Bail Appl..No. 2667 of 2015

CRIME NO.46/2014 OF THRITHALA EXCISE RANGE, PALAKKAD DISTRICT.
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PETITIONER/ACCUSED:

**JANARDHANAN, AGED 40 YEARS,
S/O. CHATHA, PONNULLIPADY HOUSE,
KOTHACHIRA VEDAKKU DESATH, PATTAMBY TALUK,
NAGASSERY VILLAGE, PALAKKAD DISTRICT.**

BY ADV. SRI.RAJIT

RESPONDENT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.LISHA.M.G.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

SUNIL THOMAS, J.

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B.A.No.2667 of 2015

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Dated this the 14th day of July, 2015

ORDER

The sole accused in Crime No.46 of 2014 of the Thrithala Excise Range Office for offence punishable under Section 55(i) of the Abkari Act is the petitioner herein.

2. The allegation of the prosecution is that on 29.09.2014 at about 6 p.m., the accused was found engaged in selling the IMFL in contravention of the provisions of the Abkari Act. On seeing the excise party, he allegedly ran away from the spot. A quantity of 1.125 liters of IMFL and currency notes were recovered. Crime was registered after the seizure mahazar was prepared. Apprehending arrest, petitioner seeks pre-arrest bail.

3. Heard and examined the records.

4. At the outset, learned counsel for the petitioner submitted that this is the second application for anticipatory bail under Section 438 of the Code of Criminal Procedure. Learned counsel tried to bring out a case of change of circumstance on the ground that the learned Judge dismissed the earlier application on a premise that he was already involved in two other abkari cases. Learned counsel submitted that in fact the case was compounded, and for all practical purposes, it should be deemed as a case for

acquittal.

5. Even though in the earlier bail order, the Court has referred to the involvement of accused in other case as one of the ground for rejection of the anticipatory bail application, that was not the only ground on which the earlier bail application was rejected, Honourable Judge said that being an application in abkari matter, it will be expedient to reject the bail application.

6. In the light of the above, and considering the facts and circumstances on this case, I feel that this is not a fit case in which the benefit of Section 438 of the Cr.P.C can be invoked. Hence, I am not inclined to grant bail. Learned counsel for the petitioner submits that the petitioner may be permitted to surrender before the learned magistrate. He may, if so advised, do so accordingly and in case of he surrendering before the excise party, he may be produced before the jurisdictional magistrate at the earliest. In case of he surrendering before the jurisdictional magistrate and in the event of an application for bail being filed, learned magistrate shall consider the application on the same day as far as possible in accordance with law.

The bail application is dismissed.

Sd/-

SUNIL THOMAS
Judge

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