

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

Bail Appl..No. 6110 of 2015

CRIME NO. 94/2015 OF KALPETTA EXCISE RANGE, WAYANAD DISTRICT.
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PETITIONER/ACCUSED:

**P.B.PRABHAKARAN, AGED 54 YEARS,
S/O. PATTANADAN BAPPU,
THULASIPRABHA HOUSE, MANATHANA VILLAGE,
THALASSERY TALUK, KANNUR DISTRICT.**

BY ADV. SRI.MATHEW KURIAKOSE

RESPONDENT/STATE:

**STATE OF KERALA,
(C.R. NO 94/2015 OF KALPETTA EXCISE RANGE)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.R.REMA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

A.HARIPRASAD, J.

B.A No.6110 of 2015

Dated this the 3rd day of November, 2015.

ORDER

Application for pre-arrest bail under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.94 of 2015 of Kalpetta Excise Range registered for an offence punishable under Section 58 of the Abkari Act.

3. Prosecution case, in short, is that on 11-09-2015 the Excise party found that the petitioner had kept 1280 litres of toddy against the provisions of the Abkari Act. Admittedly, the petitioner is a licensed contractor. Annexures C and D are the toddy transport permits. Altogether, he is permitted to transport 603 litres of toddy per day. It is the allegation that the said quantity of 1280 litres of toddy was detected from a building under construction owned by the petitioner.

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

5. Learned Public Prosecutor contended that excess quantity of toddy was kept in an unlicensed premise. Learned

counsel for the petitioner contended that the entire allegations of the prosecution if taken at its face value will only attract Section 56(b) of the Abkari Act and not Section 58 of the Abkari Act. To buttress this contention, a decision of this court in ***Jith and Others v. State of Kerala (2013 (3) KHC 138)*** is also relied on. Considering the nature of allegations, I find that bail can be granted to the petitioner with following directions :

1. Petitioner shall surrender before the investigating officer within a period of one week from today and submit himself for interrogation. In that event, he shall be released on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.
2. The sureties shall produce documents to establish their identity and solvency. The Investigating Officer need not insist on the solvency certificate, but other documents can also be perused to find out whether the sureties

are solvent or not.

- 3 Petitioner shall appear before the Investigating Officer as and when directed.
4. Petitioner shall not influence or intimidate witnesses.
5. If any of the above conditions is violated by the petitioner, the learned Magistrate having jurisdiction is free to cancel the bail.

Sd/-
A.HARIPRASAD,
JUDGE.

//True copy//

amk

P.A to Judge