

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.KEMAL PASHA**

**TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936**

**Bail Appl..No. 7809 of 2014**  
-----

**CRIME NO. 1001/2014 OF MATTANNUR POLICE STATION , KANNUR**  
-----

**PETITIONER(S)/ACCUSED:**  
-----

**M.SHAMSUDDEN, AGED 44 YEARS  
S/O.SADULI, KANNAN KAVU HOUSE, (PO) P R NAGAR,  
VALIYAMBRA, KANNUR.**

**BY ADVS.SMT.K.DEEPA (PAYYANUR)  
SRI.V.R.NASAR**

**RESPONDENT(S)/COMPLAINANT:**  
-----

- 1. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM-682431.**
- 2. INSPECTOR OF POLICE,  
MATTANNUR POLICE STATION, KANNUR DISTRICT-673649.**
- 3. SUB INSPECTOR OF POLICE,  
MATTANNUR POLICE STATION, KANNUR DISTRICT-673649.**

**BY PUBLIC PROSECUTOR SMT.LALIZA. T.Y.**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06-01-2015,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**PJ**

B.KEMAL PASHA, J.

-----  
B.A. No.7809 of 2014  
-----

Dated this the 6<sup>th</sup> day of January, 2015

O R D E R

~ ~ ~ ~ ~

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.1001/2014 of Mattannur Police Station, registered for the offences punishable under Sections 353 and 379 of IPC and Section 20 and 21 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 read with Sec.12(v) of the said Act.

3. On 16.10.2014 at 6.15 p.m., jeep bearing registration No.KL-08 W-5602 loaded with river sand illegally collected from the river without any licence was found parked at the road side. When the same was attempted to be seized by the defacto complainant police officer on duty, the petitioner rushed to the spot and pushed the defacto complainant and obstructed the discharge of his official duty.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor and perused the CD. The contents of the CD, prima facie, reveal the complicity of the petitioner. It has been reported that the petitioner is an accused in Crime No.240/2014, Crime No.904/2014 and Crime No.313/2014 of the said police station. Crime No.240/2014 is for the removal of sand and Crime No.904/2014 is for the offence under Sec.379 IPC and under Sec.20 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001, theft of sand. Crime No.313/2014 is one registered for the offence punishable under Sections 457 and 380 IPC.

5. Considering the series of criminal background on the part of the petitioner, I am of the view that he is not entitled for anticipatory bail.

6. The learned counsel for the petitioner seeks for an opportunity to the petitioner 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.

Sd/-

B.KEMAL PASHA,  
JUDGE

//true copy//

P.S. To Judge

St/-