

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Bail Appl..No. 8754 of 2014

CRIME NO. 33/2014 OF IDUKKI EXCISE RANGE OFFICE , IDUKKI

PETITIONER(S)/ACCUSED 1 AND 2 :

- 1. VINCENT, AGED 54 YEARS,
S/O.THOMMAN, THAKARAPITTIL HOUSE, KOKKARAKULAM BHAGOM,
MULAKUVALLI KARA, IDUKKI VILLAGE, IDUKKI.**
- 2. JOBY, AGED 25 YEARS,
S/O.VINCENT, RESIDING DO.**

BY ADV. SRI. UNNIKRISHNAN V. ALAPATT

RESPONDENT(S)/COMPLAINANT/STATE :

- 1. EXCISE INSPECTOR,
IDUKKI EXCISE RANGE - 685 603.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 09-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

B.KEMAL PASHA, J.

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B.A. No. 8754 of 2014

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Dated this the 9th day of February, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are the accused in C.R.No.33 of 2014 of the Idukki Excise Range, registered for the offences punishable under Sections 55(g), 8(1) and 8(2) of the Abkari Act.

3. The allegation against the petitioners is that on 21.10.2014, 30 litres of arrack, 700 litres of wash and implements for distilling arrack were seized from the property of the petitioners.

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

5. The learned counsel for the petitioners has argued that it was on the basis of the specific complaints preferred by

the petitioners, an Excise raid was conducted near the property of the defacto complainant. In the raid conducted in the locality, certain quantity of arrack, wash and implements for brewing arrack were seized from a property, which is situated 250 metres away from the house and property belong to the petitioners. In order to falsely implicate the petitioners in the crime, the Excise Officers have alleged that those things were seized from the property belongs to the petitioners. According to the petitioners, they have no such property at all. Reports were obtained. Finally, the Village Officer, Idulkki has reported that the place from where the contraband was seized is a Puramboke land, over which the petitioners have no possession or enjoyment at all. That Puramboke is a Forest Puramboke, which is situated 250 metres away from the property of the petitioners. Matters being so, there is nothing to show that the contraband was seized from the possession of the petitioners and the petitioners have any knowledge with regard to the said

contraband items. Even though an application seeking anticipatory bail cannot normally be entertained in Abkari offences, when the petitioners have been unnecessarily dragged into such a situation, this Court is of the view that petitioners are entitled to the discretionary relief of anticipatory bail.

In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners on bail in the event of their arrest on each of them executing a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

- (i) The petitioners shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Mondays and Thursdays commencing from 16.02.2015 for a period of three

months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioners shall not tamper with the evidence or influence witnesses.

(iii) The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) The petitioners shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/9/2/15

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P.A. To Judge

