

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.9060 of 2014

CR NO.38/2014 OF PEERUMEDU EXCISE RANGE OFFICE,PEERMADE,IDUKKI

PETITIONER/IST ACCUSED:

**VARGHESE KURIAKOSE,S/O.KURIAKOSE VARKEY,
ALACKAKUDYIL HOUSE,KOCHUKARUNTHARUVI P O,
ARAPPUKADU,VAGAMON VILLAGE,
PERRUMEDU TALUK,IDUKKI DISTRICT.**

**BY ADVS.SMT.MABLE.C.KURIAN
SRI.ARUN JOSE THOMAS**

RESPONDENT/COMPLAINANT - STATE:

**STATE OF KERALA,THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

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

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B.KEMAL PASHA, J.

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B.A. No. 9060 of 2014

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Dated this the 6th day of January, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the 1st accused in Crime No.38 of 2014 of the Peermade Excise Range, registered for the offence punishable under Section 55(g) of the Abkari Act.

3. The allegation against the petitioner and the other accused, who is his wife, is that on 13.08.2014 at 1.30 p.m., they were found keeping in their possession 40 litres of wash in their house.

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

5. According to the learned counsel for the petitioner, the petitioner was not present in the house and his wife was arrested, detained, and subsequently enlarged on bail. The is an application seeking anticipatory bail in an abkari case involving a serious offence. The same cannot be entertained.

This is a case wherein the custodial interrogation of the petitioner is required. Matters being so, the petitioner is not entitled to the discretionary relief of 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

