IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

MONDAY, THE 15TH DAY OF JUNE 2020 / 25TH JYAISHTA, 1942

Bail Appl..No.3460 OF 2020

CRIME NO.58/2020 OF Kuttanad Excise Range Office , Alappuzha

PETITIONER/ACCUSED:

MANU,
AGED 32 YEARS,
S/O. LATE MANIYAN, THURUTHIYIL CHIRA,
NEDUMUDI PANCHAYATH, WARD NUMBER 7,
ALAPPUZHA DISTRICT.

BY ADV. SALIL NARAYANAN K. A.

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
(CRIME 58/2020 OF THE KUTTANAD EXCISE
RANGE - ALAPPUZHA DISTRICT).

SRI. C. N. PRABHAKARAN, SR. PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15.06.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 15th day of June 2020

This is an application filed under Section 438 of Cr.P.C seeking anticipatory bail.

2. The petitioner is the accused in crime No.58/2020 of excise range Kuttanad, for having allegedly committed offences punishable under Section 55(g) of the Abkari Act.

3. The prosecution case in brief is that, on 29.04.2020, the excise party on getting information that the petitioner is engaged in brewing of illicit arrack came to his residential house. He was not present in the house but they recovered 150 litres of wash and other distilling materials from his house where his mother was staying present. It is stated that his mother had pointed out towards him as the sole accused

in this crime. The petitioner apprehends arrest and has therefore approached this court for pre-arrest bail.

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

5. The learned counsel for the petitioner submits that the petitioner was not present in the house and very interestingly his mother has not been made an accused in this case. There is nothing to connect the petitioner with the crime and therefore, it has been presumed that he is not guilty and he has to be granted pre-arrest bail.

6. In view of the embargo under Section 41A and the presumptions available under Section 64 of the Abkari Act, the petitioner who is implicated as an accused will have to adduce the rebuttal evidence to rebut the presumptions available during the trial and the said evidence

cannot be considered at this stage to grant him bail. The Honourable Supreme Court has in ***Muraleedharan v. State of Kerala [2001 KHC 411]*** held that the provisions under Section 41A is akin to Section 37 of the NDPS Act. Therefore his plea for bail cannot be considered at this stage.

7. The petitioner is therefore directed to surrender before the investigating officer within two weeks and after his interrogation in the event of his arrest, he shall be produced before the jurisdictional court. He is at liberty to apply for a regular bail before the jurisdictional court, which shall be considered and preferably disposed of on the very same date.

The petition is disposed of as above.

Sd/-

ASHOK MENON
JUDGE

SPR