

**Gopalakrishnan Vs STATE OF KERALA**

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**SooperKanoon Citation :** [sooperkanoon.com/1533057](https://sooperkanoon.com/1533057)

**Court :** Kerala Orders

**Decided On :** Jan-31-2022

**Judge :** Honourable Mrs. Justice C.S. Sudha

**Appeal No. :** Bail Appl./8465/2021

**Appellant :** Gopalakrishnan

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE C.S. SUDHA  
MONDAY, THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943  
BAIL APPL. NO. 8465 OF 2021 (CRIME NO.35/2021 OF BANDADKA  
EXCISE RANGE OFFICE, KASARA DISTRICT FOR OFFENCE  
PUNISHABLE U/S.55(g) OF THE KERALA ABKARI ACT)  
PETITIONER/ACCUSED: GOPALAKRISHNAN, AGED 64 YEARS, S/O.  
PADMANABHAN, RESIDING AT KARAKKADU HOUSE,  
KUNDAMKUZHY P.O. BANDADKA KASARGOD, PIN - 671541 BY ADV  
SHIBA M SAMUEL

RESPONDENT/COMPLAINANT: STATE OF KERALA, REPRESENTED BY  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM, PIN -

682031 BY ADV. SRI.VIPIN NARAYAN, PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :-2-: Dated this the 31 st day of January, 2022

## **ORDER**

This is an application under Section 438 Cr.P.C. filed by the petitioner/accused for pre-arrest bail in Crime No.35/2021 of Bandadka Excise Range Office, Kasaragod District, alleging commission of the offence punishable under Section 55(g) of the Abkari Act, 1077 (the Act).

2. The prosecution case is that on 04.05.2021 at 4.30

p.m., 50 liters of wash was seized from the house of the accused. Hence the accused is alleged to have committed the offence punishable under the above-mentioned Section.

3. The learned Public Prosecutor submitted that due to

COVID-19 restrictions, the petitioner/accused was not arrested though he was present at the spot when the recovery was effected. It is also pointed out that this aspect has been stated in the seizure mahazar prepared on the said day by the Excise official concerned. It is also submitted that since recovery has been effected, no further detention or custody of the accused is required for the purpose of

:-3-: investigation.

4. It is submitted by the learned counsel for the

petitioner/accused that the petitioner is a senior citizen having disability of his left hand and that he has no criminal antecedents and so taking into account these circumstances, a lenient view may be taken.

5. Heard both sides and perused the records.

6. The power of the court to grant bail in the offences of

this nature is circumscribed by the provisions contained under Section 41A of the Act which is in addition to the provisions contained in Cr. PC. From the materials presently available before this Court, there are no reasonable grounds for believing that the petitioner is not guilty of the offence alleged against him or that he is not likely to commit any offence while on bail. That being the position, the request for pre-arrest bail cannot be granted. If the police/excise officials do not want or take steps to arrest or detain the petitioner, it will be open to the petitioner to resort to appropriate remedies available under law.

: -4-: Hence, the bail application is dismissed. Sd/- C.S.SUDHA JUDGE ami/

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