

**Ibrahim vs the State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1767578](https://sooperkanoon.com/1767578)

**Court :** Kerala

**Decided On :** May-29-2020

**Judge :** Honourable Mr. Justice Ashok Menon

**Appeal No. :** Bail Appl./3098/2020

**Appellant :** Ibrahim

**Respondent :** The State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON  
FRIDAY, THE 29TH DAY OF MAY 2020 / 8TH JYAISHTA, 1942 Bail  
Appl..No.3098 OF 2020 CRIME NO.12/2020 OF Irinjalakuda Excise  
Range Office , Thrissur PETITIONER/A2: IBRAHIM AGED 47 YEARS  
S/O.ABDUL KHADER, THIRUNELVELIKKARAN, KODAKARA,  
THRISSUR DISTRICT. BY ADVS. SRI.C.S.MANILAL SRI.S.NIDHEESH  
RESPONDENT/S: THE STATE OF KERALA REPRESENTED BY THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-  
682031. OTHER PRESENT: SRI. T.R.RENJITH PP THIS BAIL  
APPLICATION HAVING COME UP FOR ADMISSION ON 29.05.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

## **O R D E R**

This is a petition for anticipatory bail filed under Section 438 Cr.PC.

2. Petitioner is the second accused in CR No.12/2020 of Irinjalakkuda Excise Range, Thrissur for having allegedly committed offences punishable under

Sections 55(i) & 58 of the Abkari Act. The allegation against the petitioner is that the excise officials seized 7.375 litres of Indian Made Foreign Liquor which was meant for sale in Karnataka State only, from the possession of the accused. The petitioner states that the liquor was seized from the possession of the first accused and that he has absolutely no involvement in the case, and that as an adjacent grocery shop owner, he has been falsely implicated by roping in him also in the crime along with the first accused.

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

4. It is seen that the first accused was arrested and released on bail. The specific provision under Section 41A of the Abkari Act creates an embargo in entertaining an application for anticipatory bail for

offences coming under the Act. It is also observed so in the decision of the Honorable Supreme Court of India in Muraleedharan v. State of Kerala [2001 KHC 411]. Under the circumstances, this Bail Application cannot be entertained.

5. The petitioner is, therefore, directed to surrender before the investigating officer within two weeks. After interrogation, he shall be produced before the jurisdictional Magistrate before whom the petitioner is at liberty to apply for regular bail. The application for regular bail so filed by the petitioner shall be considered and preferably disposed of by the Magistrate, on merits, on the very same day itself. The fact regarding granting of bail to the first accused shall also be considered by

the learned

Magistrate while considering the petitioner's application for bail. With these observations, the Bail Application is dismissed. Sd/- ASHOK MENON JUDGE jg  
APPENDIX PETITIONER'S EXHIBITS ANNEXURE-I : TRUE COPY OF THE ORDER IN BA 1391/2020 DATED 28.2.2020. ANNEXURE-II : TRUE COPY OF THE COMPLAINT OF THE PETITIONER DATED 3.2.2020

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