

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 20TH DAY OF DECEMBER 2013/29TH AGRAHAYANA, 1935

Bail Appl..No. 8672 of 2013 ()

CRIME NO. 2142/2013 OF KALAMASSERY POLICE STATION , ERNAKULAM

PETITIONER/ACCUSED NO.1

**ALLEN PHILIP, AGED 48,
S/O.PHILIP, MARUTHI BHAVAN,
ULLOOR VILLAGE,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.R.T.PRADEEP
SRI.P.BIJIMON**

RESPONDENT/COMPLAINANT(S):

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. C. RASHEED

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20-12-2013,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

OKB

K.HARILAL, J.

B.A. No.8672 of 2013

Dated this the 20th day of December, 2013

ORDER

This is an application for regular bail under Section 439 of the Code of Criminal Procedure.

2. The petitioner is the first accused in Crime No.2142/2013 of Kalamassery Police Station, pending before the Judicial First Class Magistrate's Court-II, Aluva. The above crime was registered against the petitioner and others alleging offences punishable under Section 406, 420 and 34 of the Indian Penal Code.

3. The prosecution version is that the first accused in furtherance of common intention made to believe the de facto complainant that the second accused will arrange an MBBS seat for her daughter in Amrita Institute of Medical Science for the academic year 2013-14 and the de facto complainant made to part an amount of Rs.13 lakhs to the second accused. But the promised admission did not materialise and the cheque issued by the second accused to secure the repayment of amount in

case the admission did not get through was returned dishonoured due to insufficiency of funds. The petitioner was arrested on 29.10.2013 in connection with another crime of similar nature and his arrest in this crime was recorded on 10.12.2013.

4. The learned counsel for the petitioner submits that the petitioner is innocent and he is falsely implicated in the offence. The allegations against him do not constitute the offence under Section 420 of the IPC as there is no allegation that the petitioner was part and parcel of the transaction from the inception of the offence. The petitioner is not at all involved in any other offence except the connected similar cases.

5. The learned Public Prosecutor, per contra, submits that he is involved in six other cases of the same nature and he has been granted bail in all other cases. In the present crime, he is undergoing judicial custody from 10.12.2013 onwards.

6. Considering the above facts, it is felt that continued custody of the petitioner is unnecessary. Therefore, the application is allowed on the following conditions:

- i. The petitioner shall be released on bail on executing a bond for Rs.50,000/- with two solvent sureties each for

the like sum to the satisfaction of the Judicial First Class Magistrate's Court-II, Aluva.

- ii. The petitioner shall report before the Investigating Officer on every Wednesday between 9 A.M. and 10 A.M. for a period of two months and also he shall appear before the Investigating Officer as and when required.
- iii. The petitioner shall not leave the State of Kerala without prior permission of the Learned Magistrate concerned.
- iv. The petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witnesses.
- v. If any of the conditions is violated, the bail granted shall stand cancelled and the learned Judicial First Class Magistrate concerned, on being satisfied of the said fact, may take such steps as are available to him in law.

Sd/-
(K.HARILAL, JUDGE)

okb.