

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Bail Appl..No. 3 of 2015 ()

CRIME NO. 1248/2014 OF HOSDURG POLICE STATION, KASARAGOD DISTRICT.

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PETITIONERS/ACCUSED:

1. SUBAIR KAPPANAKKAL, S/O. C.H. MUHAMMED,
AGED 38 YEARS, KAPPANAKKAL HOUSE,
P.O. CHITTARI, KANHANGAD, KASARAGOD DISTRICT.
2. NAFEESA KAPPANAKKAL, W/O. MUHAMMED. C.H.,
AGED 50 YEARS, KAPPANAKKAL HOUSE,
P.O. CHITTARI, KANHANGAD, KASARAGOD DISTRICT.
3. JUBAIRIYA KAPPANAKKAL, W/O. MUNEER,
AGED 25 YEARS, KAPPANAKKAL HOUSE,
P.O. CHITTARI, KANHANGAD, KASARAGOD DISTRICT.
4. HAJIRA KAPPANAKKAL, W/O. HASHIM,
AGED 23 YEARS, KAPPANAKKAL HOUSE,
P.O. CHITTARI, KANHANGAD, KASARAGOD DISTRICT.

**BY SRI.M.RAMESH CHANDER, SENIOR ADVOCATE.
ADVS.SRI.ANEESH JOSEPH,
SMT.DENNIS VARGHESE.**

RESPONDENT/COMPLAINANT & STATE:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHI- 682 031.**

BY PUBLIC PROSECUTOR SMT.LALIZA. T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

B.KEMAL PASHA, J.

.....
B.A. No.3 of 2015
.....

Dated this the 15th day of January, 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.1248/2014 of the Hosdurg Police Station, Kasaragod registered for the offence punishable under Section 498A of the Indian Penal Code.

3. The allegation against the petitioners is that they have tortured and harassed the defacto complainant, who is the wife of the first petitioner and treated her with cruelty, by demanding more dowry and gold ornaments, after misappropriating her entire 75 sovereigns of gold ornaments and an amount of ₹3 lakhs. She was harassed and tortured to the maximum by demanding her to sell and handover the

sale proceeds of 50 cents of property belongs to her. The second petitioner is the mother of the first petitioner and petitioners 3 and 4 are the sisters of the first petitioner.

4. Heard learned counsel for the petitioners and the learned Public Prosecutor. Perused the CD.

5. The contents of the CD, *prima facie*, reveal the complicity of the first petitioner. It has been reported that the first petitioner has married again, during the subsistence of his marriage with the defacto complainant, on 20.11.2014. The cruelty meted out by the defacto complainant from the first petitioner is writ large from the contents of the CD. Therefore, this is not a fit case wherein the discretionary relief of anticipatory bail can be granted to the first petitioner.

6. At the same time, the custodial interrogation of petitioners 2 to 4 is not required for the continued investigation of this case. Considering the allegations against petitioners 2 to 4 and their lesser involvement in torturing and harassing the defacto complainant, this Court

is of the view that anticipatory bail can be granted to them.

7. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of petitioners 2 to 4, is directed to enlarge petitioners 2 to 4 on bail in the event of their arrest on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) Petitioners 2 to 4 shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays commencing from 22.01.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) Petitioners 2 to 4 shall not tamper with the evidence or influence witnesses.

(iii) Petitioners 2 to 4 shall make themselves available for interrogation as and when required by the investigating officer.

(iv) Petitioners 2 to 4 shall not involve in

any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

This petition, as far as the 1st petitioner is concerned, is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge