

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

Bail Appl..No. 162 of 2015

CRIME NO. 884/2014 OF OCHIRA POLICE STATION, KOLLAM DISTRICT.

.....

PETITIONER(S)/ACCUSED:

1. YUSUF KUTTY,
S/O.IBRAHIM KUTTY, AGED 50 YEARS,
KUTTIYIKIZHAKKATHIL VEEDU,
KRISHNAPURAM VILLAGE,
KARTHIKAPPILLY TALUK, KOLLAM DISTRICT.
2. MUHAMMEDKUNJU, AGED 48 YEARS,
S/O.IBRAHIM KUTTY,
KUTTIYIKIZHAKKATHIL VEEDU,
KRISHNAPURAM VILLAGE,
KARTHIKAPPILLY TALUK, KOLLAM DISTRICT.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENT(S)/STATE AND COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
OCHIRA POLICE STATION, KOLLAM.
3. KRISHNAKUMAR, AGED 65 YEARS,
S/O.PARAMUPILLAI, 35/1476-A, JANATHA ROAD,
PALARIVATTOM SOUTH, COCHIN-682025.
(FROM DWARAKA, MAVELIKKARA).

R1 & R2 BY PUBLIC PROSECUTOR SRI.SREEJITH.V.S

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

B. KEMAL PASHA, J.

.....
B.A. No.162 2015
.....

Dated this the 19th day of February, 2015

ORDER

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Petition under Section 438 Cr.P.C.

2. Petitioners are accused Nos.1 and 2 in Crime No.884/2014 of Ochira Police Station registered for the offences punishable under Sections 417, 420, 468 and 120B read with Section 34 IPC.

3. The allegation against the petitioners is that, while they were continuing as tenants in respect of a shop room, they had falsely forged an agreement as if the one executed by the *defacto complainant* in their favour by agreeing to sell the said shop room and the property to them. It is alleged in the said agreement that an amount of ₹10 lakhs was obtained by the *defacto complainant* as advance from the petitioners. According to the *defacto complainant*, the property was transferred earlier to another

person and the present agreement was cooked up with a view to obstructing the transferee from taking possession of the property and the shop room.

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

5. The crime was registered on the basis of a private complaint filed by the *defacto complainant* before the Judicial First Class Magistrate's Court, Karunagappally, which was referred to the police under Section 156(3) Cr.P.C. The learned counsel for the petitioners has pointed out that earlier, sale deed was allegedly executed with a view to defeating the rights of the petitioners on the basis of the agreement. A civil suit is pending and the agreement allegedly an outcome of forgery, is sought to be sent to the FSL for examination. The FSL report has not been received so far. The learned counsel for the petitioners has pointed out that as per the agreement, the petitioners had agreed to pay an amount of ₹25 lakhs per cent for the property,

whereas the sale deed was executed for a very low amount when compared to the amount shown in the agreement. In fact, the question as to whether the agreement is a forged one or not is being dealt with in the civil suit pending between the parties. Considering the facts and circumstances of this case, I do not think that the custodial interrogation of the petitioners is required for the continued investigation of this case. No criminal antecedents have been reported against the petitioners. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioners.

6. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners, is directed to enlarge the petitioners 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) The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays commencing from 26.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) The petitioners shall not tamper with the evidence or influence witnesses.

(iii) The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) The petitioners 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.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/19/02

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PA to Judge