

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

Bail Appl..No.197 of 2015

CRIME NO.970/2014 OF KEEZHVAIPUR POLICE STATION,PATHANAMTITTA).

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PETITIONER/2ND ACCUSED:

**MUHAMMED MAKBUL MIYA,S/O.THAFIJUDHIN MIYA,
AGED 33,HARUDESARBADI,HAITHABIKHAN,
NADAPARBADI,PARANPOOR,RETHUVA,MALDA,WEST BENGAL.**

BY ADV. SRI.K.I.SAGEER

RESPONDENT/STATE & COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
(F.I.R.NO.970/2014)KEESHVAIPUR POLICE STATION,
KEEZHVAIPUR,PATHANAMTHITTA DISTRICT,
REPRESENTED THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM,PIN-682031.**

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 24-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

B.KEMAL PASHA, J.

B.A.No.197 of 2015 D

Dated this the 24th day of February 2015

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioner is the second accused in Crime No.970/2014 of Keezhvaipur Police Station, Pathanamthitta district registered for the offences punishable under Sections 457, 461, 380, 120B and 441 read with Section 34 of the I.P. C.

3. The allegation against the petitioner and the other accused is that some time in between 11 p.m. on 23.7.2014 and 9.00 a.m. on 24.7.2014, a large hole was made on the wall of an uninhabited building adjacent to the Jose Jewellery at Mallappally by using weapons, thereby committed trespass into the jewellery. Silvery jewellery for 10 kgs. worth Rs.4 lakhs and the gold

jewellery kept in a locker worth Rs.65,25,000/- having a weight of 2.5 kgs along with an amount of Rs.1,69,000/- kept in the locker were stolen away, thereby committing theft of articles worth Rs.70,94,000/-. Some of the accused were arrested and just 12.86 gms of gold, 639.420 gms of silver and an amount of Rs.95,500/- alone could be recovered. The other accused are yet to be arrested. The petitioner has been in custody for the period from 11.8.2014 onwards.

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

5. The learned Public Prosecutor has pointed out that the petitioner is also a member of the group, which had committed house trespass into the jewellery and committed theft of the entire valuables. It has been reported that the petitioner, along with A1, A8 and A11 reached the rear side of the uninhabited building situated behind the jewellery with an iron bar, gas cylinder, gas

cutter etc, and they made a hole on the wall on 22.7.2014 at 11 p.m. Thereafter, they again came on 23.7.2014 during night and the petitioner along with A1, A9 and A21 gained entry into into the building through the hole, which they had made on the wall. By using the other implements were bought by them, the petitioner along with A1, A8, A18, A14, A9 and A21 made a hole on the wall of the jewellery, through which they gained entry into the jewellery and committed theft. Even though the learned counsel for the petitioner has pointed out that the petitioner is in the same footing of A5 and A6, the same is not correct. The contents of the CD *prima facie* reveal the complicity of the petitioner. The allegations against the petitioner are very grave and serious. The stolen articles worth rupees lakhs and lakhs, are yet to be recovered. Most of the other accused, who were actually involved in the incident are yet to be arrested. Considering the seriousness of the allegations against the petitioner and the present stage of investigation, I am satisfied

that the petitioner is not entitled to be enlarged on bail.

In the result, this bail application is dismissed.

Sd/-

B.KEMAL PASHA,
JUDGE

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PA to Judge