

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

Bail Appl..No. 281 of 2015 ()

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CRIME NO. 598/2014 OF HOSDURG POLICE STATION, KASARAGOD DISTRICT.**

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PETITIONER/ACCUSED NO.5:

**ASHALATHA Y.K., AGED 49 YEARS,
W/O. LATE B.YOGESH KAMATH,
RESIDING AT HAIR HARA KRUPA,
MALARAYA TEMPLE ROAD,
ASHOK NAGAR, URVA, MANGALORE,
KARNATAKA.**

**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 20-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

B.KEMAL PASHA, J.

B.A.No.281 of 2015 A

Dated this the 20th day of February 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioner is the 5th accused in Crime No.598 of 2014 of the Hosdurg Police Station, registered for the offences punishable under Sections 317, 370(5), 372 and 373 read with Section 34 of the Indian Penal Code.

3. It is alleged that one day during the month of June 2012, the 1st accused with the knowledge and consent of his wife, who is the 7th accused, sold their 9 months old daughter to the petitioner herein, who is a practicing Lawyer at Mangalapuram, for an amount of Rs.1,50,000/-. The petitioner along with A2, A3 A4and A6 acted as middlemen in the transaction and obtained

amounts ranging from Rs.10,000/- to Rs.20,000/- as commission.

After that, on 01.02.2013 again the 1st accused with the knowledge and consent of the 7th accused, sold their 8 months old son to the petitioner herein for an amount of Rs.1,75,000/- with the aid of the 2nd accused for which the 2nd accused received an amount of Rs.20,000/- as commission.

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

5. None of the offences mentioned above can be attracted in the cases. It seems that even though there was strong recommendation from the Law Commission of India for incorporating an offence to curb the menace of this kind, the recommendation was not accepted and no steps have been taken for incorporating any such offences in the the I.P.C. or in any other law. In the absence of any penal provisions, I am of the view that the only course open to this Court at present is to grant anticipatory

bail to the petitioner.

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 petitioner, is directed to enlarge the petitioner on bail in the event of his arrest on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The petitioner shall report before the investigating officer in between 09.00 a.m. and 11.00 a.m. on all Fridays and Tuesdays commencing from 27.02.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

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

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

(iv) The petitioner 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

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// TRUE COPY //

PA to Judge