

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

Bail Appl..No. 499 of 2015

CRIME NO. 728/2013 OF KUTTIPURAM POLICE STATION , MALAPPURAM

PETITIONER(S)/1ST ACCUSED:

**MOHAMMED ALI, AGED 42 YEARS,
S/O.ABOOBAKKER, ITTIKAPARAMBIL HOUSE, P.O.THAVANOOR
MUVVANKARA DESOM, PONNANI TALUK, PIN-679573.**

**BY ADVS.SRI.P.G.SURESH
SRI.RAJAN VISHNURAJ
SRI.G.SUDHEER (THURAVOOR)
SRI.V.HARISH**

RESPONDENT(S)/COMPLIANANT:

**STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
KUTTIPURAM POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.LALIZA T.Y.

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

PJ

B.KEMAL PASHA, J.

.....
B.A. No.499 OF 2015
.....

Dated this the 2nd day of February, 2015

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioner is the first accused in Crime No.728/2013 of the Kuttipuram Police Station, Malappuram registered for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioner and the other accused, who is his wife, is that they have obtained an amount of ₹2,20,63,478/- from the defacto complainant for purchasing properties in the name of the defacto complainant, for Real Estate business. Other business transactions were also there between the parties. It is alleged that the petitioner and his wife have defrauded and

cheated the defacto complainant and swindled the money obtained from the defacto complainant, thereby committing criminal breach of trust. Initially, anticipatory bail was granted to the petitioner by this Court vide order dated 15.07.2014 in B.A.No.5030/2014. The petitioner was directed by this Court to file an affidavit before the learned Magistrate by detailing the immovable properties owned by him, other than the properties transferred to the defacto complainant, and to undertake that those properties would not be sold, encumbered or alienated. Subsequently, it has come out that the petitioner has suppressed one item of valuable property owned by him. Vide order dated 08.12.2014 in CrI.M.C.No.5802/2014, this Court has cancelled his bail. The petitioner has surrendered before the court below on 08.01.2015 and thereafter he has been in custody.

4. Heard learned counsel for the petitioner, learned counsel for the defacto complainant and the learned Public

Prosecutor.

5. The learned counsel for the defacto complainant has pointed out that earlier the petitioner was involved in a crime alleging an offence under Section 395 IPC, and its details have been produced. It seems that it was a serious incident in which such a crime was registered and subsequently the petitioner was enlarged on bail in it. In connection with the incident in this case, there was another crime also, in which also the petitioner was granted bail. The learned Public Prosecutor has pointed out that the investigation is over and final report has already been filed in this matter. It is true that the bail granted earlier to the petitioner was canceled by this Court on the reason that he had failed to reveal one of the items of his properties. Considering the facts and circumstances of the case and the fact that the final report has already been filed in the matter, this Court is of the view that the continued detention of the petitioner in custody is not required and therefore, I

am of the view that the petitioner can be enlarged on bail, on strict conditions.

6. In the result, this Bail Application is allowed and the petitioner shall be enlarged on bail on his executing a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and subject to the following terms and conditions:-

(i) The petitioner shall file an affidavit before the court below detailing all his properties and by undertaking that the same would not be transferred, encumbered or alienated.

(ii) The petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Mondays and Thursdays commencing from 09.02.2015 for a period of six months.

(iii) The petitioner shall surrender his passport before the court below, and in case he has no passport, he shall file an affidavit to that

effect before the court below.

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

(v) The petitioner shall make himself available for interrogation as and when required by the Investigating Officer.

(vi) 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

ul/-

[True copy]

P.S. to Judge