

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Bail Appl..No. 561 of 2015 ()

CrI.MC 84/2015 of SESSIONS COURT,TRIVANANTHAPURUM
CRIME NO. 37/2014 OF CYBER CRIME POLICE STATION,THIRUVANANTHAPURAM

PETITIONER/ACCUSED:-:

GOONJAN MALL, AGED 26 YEARS
S/O.SUSHEEL KUMAR MALL, 234, 2ND CROSS
CAMBRIDGE LAYOUT, BANGALORE.

BY ADV. SRI.V.V.RAJA

RESPONDENT/COMPLAINANT:-:

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

R BY PUBLIC PROSECUTOR, SMT.LALIZA T.Y.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.KEMAL PASHA, J.

B.A.No.561 of 2015 A

Dated this the 11th day of February 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.37 of 2014 of the Cyber Crime Police Station, Thiruvananthapuram registered for the offences punishable under Sections 66A(c), 66C and 66D of the Information Technology Act, 2000 and 420 of the I.P.C.

3. Noting a website in the internet in the name and style as 'www.onlineprasad.com', the Commissioner of the Travancore Devaswom, who is the de-facto complainant herein, launched a complaint before the Director General of Police Kerala on 30.11.2014, apprehending that the petitioner is engaged in sales of bogus items by styling it as original prasadam and some other

solemn articles obtained from Sabarimala, to various persons by charging an amount of Rs.1,801/- per kit. The Commissioner of Travancore Devaswom complained that the said act of the petitioner is illegal and it would tend to destroy the sanctity of the prasadam from Sabarimala. Consequently, the present crime has been registered.

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

5. According to the Investigating Officer, the investigation has revealed that the petitioner is engaged in the resale of sacred prasadam of renowned temples in India, like Sabarimala, Jagannadh Puri, Vaishno Devi Matha etc. and has been making unlawful profit from the devotees. The learned counsel for the petitioner has pointed out that when a person cannot go directly to Sabarimala and such person wants to have the sacred items like Aravana, Appam, Vibhuthi etc., there is absolutely nothing wrong

in another person going over there and collecting the sacred items and handing over it to the needy, after taking the expenses that would be incurred for the same.

6. On going through the entire allegations and contents of the C.D., I do not find that any of the offences alleged above can be attracted in this matter. The learned counsel for the petitioner has pointed out that the petitioner has in bold letters made it clear in the website that “we are private 3rd party service providers for devotees who are unable to visit the temple, with no direct involvement with the temple trust”. Therefore, it is evident that he has never mislead any of the customers, who approaches him for the purchase through online; whereas, he has made it clear that he has no association with the temple trust. I do not find any fraudulent representation in the website. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioner.

7. 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 each for the like sum 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 9 a.m. and 11 a.m. on all alternative Wednesdays commencing from 18.2.2015 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

dl

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PA to Judge