

**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. 635 of 2015**  
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**CRIME NO. 1389/2014 OF NORTH PARUR POLICE STATION, ERNAKULAM**  
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**PETITIONER(S)/ACCUSED NO.3:**  
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**MISHAL KHAN, AGED 20 YEARS,  
S/O.LATE MR.PHIROSKHAN, PUTHENPURACKAL HOUSE,  
KARUMALLOOR, NORTH PARUR.**

**BY ADV. SRI.M.A.ABDUL HAKHIM**

**RESPONDENT(S):**  
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**STATE OF KERALA,  
REPRESENTED BY THE SUB INSPECTOR OF POLICE,  
NORTH PARUR POLICE STATION, ERNAKULAM DISTRICT,  
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM.**

**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:**

**msv/**

**B.KEMAL PASHA, J.**

.....  
Bail No. 635 of 2015

.....  
Dated this the 24<sup>th</sup> day of February, 2015.

**O R D E R**

Petition under Section 438 Cr.P.C.

2. Petitioner is the 3<sup>rd</sup> accused in Crime No.1389/2014 of the North Parur Police Station registered for the offences punishable under Sections 468 and 420 read with Section 34 IPC.

3. This is a case wherein the properties jointly belonged to late Firoskhan, who is the father of the petitioner along with A5 who is the paternal uncle of the petitioner and A6 who is the uncle of the late father of the petitioner, was sold to the defacto complainant, suppressing the rights of the sister of the petitioner over the said properties. When the petitioner was a minor, his father died. His mother is working abroad. When he has attained the age of majority, his grandfather who is the first accused along with A2, A4 and A6 decided to sell out the properties. A power of attorney was obtained from A4 in favour of the

petitioner. A4 is none other than the mother of the petitioner. At the time of the execution of the sale deed, the petitioner was only 18 years. Entire amounts due to the petitioner, his mother and his younger sister were obtained by A1, A5 and A6 and the same was not given to them. According to the petitioner, when he had pointed out about the inclusion of the sister in the document, it was informed that after the execution of the sale deed, permission could be obtained from the court and another deed could be executed on the basis of such permission.

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

5. It seems that the said versions given by the petitioner is highly probable. The petitioner was in the care and custody of the first accused who was managing all his affairs and was maintaining him. Moreover, a boy of 18 years could not have exercised any such fraud. Considering the facts and circumstances of the case and the specific complaint preferred by the petitioner as against A5 and A6 (as A1 is no more at

present), I am of the view that Anticipatory bail can be granted 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 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 Tuesdays and Fridays, commencing from 3-3-2015 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)**

smm

// True Copy //

*PA to Judge*