

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

Bail Appl..No. 869 of 2015 ()

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

PETITIONER/ACCUSED NO.7 :

**SUKTHAR ALI, S/O.AKBAR ALI, AGED 37 YEARS,
PURAVHA NAGARMOUZHA, BEHARA, RETHVA
MALDA, PACHIMABENGAL.**

**BY ADVS.SRI.K.A.RIYAS
SRI.V.J.JAMES**

RESPONDENT/RESPONDENTS :

**THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

B. KEMAL PASHA, J.

.....
B.A. No.869 2015
.....

Dated this the 25th day of February, 2015

ORDER

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Petition filed under Section 439 Cr.P.C.

2. Petitioner is the 7<sup>th</sup> accused in Crime No.970/2014 of the Keezhvaipur Police Station, Pathanamthitta district, registered for the offences punishable under Sections 457, 461, 380, 120B and 411 read with Section 34 of the Indian Penal Code.

3. The allegation against the petitioner and the other accused is that some time in between 11 p.m. on 23.07.2014 and 9.00 a.m. on 24.07.2014 a large hole was made on the wall of an uninhabited building adjacent to the Jose Jewellery at Mallappally by using weapons, thereby committing trespass into the jewellery. Silver jewellery for 10 kgs. worth ₹4 lakhs and the gold jewellery kept in a locker worth ₹65,25,000/- having a weight of 2.5 kgs along

with an amount of ₹1,69,000/- kept in the locker were stolen away, thereby committing theft of articles worth ₹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 ₹95,500/- alone could be recovered. The other accused are yet to be arrested. The petitioner has been in custody for the period from 11.08.2014 onwards.

4. It is also alleged that the petitioner is hailing from West Bengal and he has accommodated the other accused who stayed with him and he pointed out the jewellery to them and also has hatched the criminal conspiracy with them to commit theft. There is no allegation that he has committed theft of any articles. It is alleged that the petitioner facilitated the theft and he remained here and the other accused, who had committed the theft, had gone back to West Bengal and other northern States with the stolen properties.

5. Heard learned counsel for the petitioner and the

learned Public Prosecutor.

6. It is a fact that the other accused, who are actually involved in the theft, are yet to be arrested. Articles worth rupees lakhs and lakhs are yet to be recovered. At the same time, the role attributed to the petitioner in the matter by the police is very limited. The only allegation is that he had arranged accommodation to the other accused who had allegedly committed the theft. It is a fact that he has not gone back to his native place even after the theft. The investigation of the case, as far as the petitioner is concerned, is over and a final report has been filed. The defacto complainant has filed a petition seeking further investigation in the matter under Section 173(8) of Cr.P.C. and the same is pending, as the remaining articles have not been recovered. The learned counsel for the petitioner has pointed out that the local residents are ready and willing to take the petitioner on bail and to keep him. No criminal antecedents have been reported against the petitioner.

Considering all the above, I am of the view that the petitioner can be enlarged on bail on strict conditions.

7. In the result, this Bail Application is allowed and the petitioner shall be enlarged on bail on his executing a bond for ₹5,00,000/- (Rupees five lakhs 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) Both the sureties shall be from the State of Kerala and they shall undertake that they will produce the petitioner, as and when required, either before the investigating officer or the court below.*

*(ii) The petitioner shall not leave the jurisdiction of the Circle Inspector of Police, Mallappally without the permission of the court below, till the disposal of the case against him.*

*(iii) The petitioner shall report before the Investigating Officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays commencing from 04.03.2015 for a period of six months.*

*(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)**

aks/25/02

*// True Copy //*

*PA to Judge*