

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

Bail Appl..No. 911 of 2015

CRIME NO. 979/2014 OF KASARAGOD POLICE STATION , KASARGOD

PETITIONER(S):

**DR.K.PANDURANGA HEGDE, AGED 57 YEARS
S/O.LATE GANAPATHI RAO, 'SRIRANGAM'
THATHAMPALLY P.O, ALAPPUZHA, PIN-688 013.**

**BY ADVS.SRI.O.V.MANIPRASAD
SRI.M.RISHIKESH SHENOY**

RESPONDENT(S)/COMPLAINANT:

**1. STATE OF KERALA
(SUB INSPECTOR OF POLICE
KASARAGOD POLICE STATION CRIME NO.979/2014)
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

**2. THE SUB DIVISIONAL POLICE OFFICER
KASARAGOD SUB DIVISION, KASARAGOD
KASARAGOD P.O. PIN-671 124.**

*** ADDL.R3 IMPEADED**

**3. GIRIDHAR VISWANATH KAMATH, AGED 64 YEARS,
S/O.VISWANATHA SUBRAYA KAMATH, MANAGING TRUSTEE,
SRI.VARADARAJA, VENKATRAMANA TEMPLE, KASARAGOD,
'SRIPRASAD', UBRAYA ANANTHA KAMATH ROAD, KASARAGOD.
(WITHIN THE LIMITS OF KASARAGOD POLICE STATION).**

ADDL.R3 IMPEADED AS PER ORDER DATED 9/3/2015 IN CRL.MA.1651/2015

**R1 & 2 BY SENIOR PUBLIC PROSECUTOR SRI.C.RASHEED
R3 BY ADV. SRI.SUNNY MATHEW**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09-03-2015,
ALONG WITH BA.NO.854/2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

B.KEMAL PASHA, J.

B.A.Nos.854 and 911 of 2015

Dated this the 9th day of March 2015

ORDER

Petitions under Section 438 Cr.P.C.

2. Petitioner in B.A.No.854/2015 is A5 and in B.A.No.911/2015 is A6 in Crime No.979/2014 of Kasaragod Police Station registered for the offences punishable under Sections 465, 468, 471 and 482 read with Section 34 IPC.

3. The allegation against the petitioners is that, as a part of their attempts to fortify an illegal propaganda that the 1st accused in the crime is the *Matathipathi* of *Kashi Math* of the Gowda Saraswatha Brahmin Community. They have published a series of

booklets in the name and style as “*Sreevyasavani*”, which contains the insignia of the *Kashi Math* along with the photograph of Sree Raghavendra Theertha Swami, who is none other than the 1st accused, by falsely styling him as the *Matathipathi*. The allegation is that they have thereby cheated and defrauded the members of the Gowda Saraswatha Brahmin Community as a whole.

4. Heard the learned counsel for the petitioners, the learned counsel for the *defacto complainant* and the learned Public Prosecutor.

5. The crime has been registered on the basis of a private complaint filed by the *defacto complainant* before the Judicial First Class Magistrate's Court, Kasaragod, which was referred to the police under Section 156(3) Cr.P.C. Various disputes are also pending between the two factions in the community. One of the factions was being led by the 1st accused, who has gone in hiding now. It is alleged that the 1st accused has gone in hiding with the treasure, idols, etc., the value of which is running to crores of

rupees and even on the orders of this Court, so far he could not be traced out even though he was ordered to surrender those properties including the treasure and idols of the *Math*. He has not so far obeyed the orders of this Court. All attempts to trace out him have become futile. It is the case of the learned counsel for the *defacto complainant* that if anticipatory bail is granted to these petitioners, it may not be possible to trace out the 1st accused in the case.

6. The only allegation against these petitioners is that they had aided the 1st accused in publishing such booklets by falsely styling the 1st accused as the *Matathipathi* of the *Kashi Math*. Apart from that, there are no other allegations against these petitioners. If at all they have committed such acts, documentary evidence is there to prove the prosecution. If the case rests solely on documentary evidence, their custodial interrogation is not warranted in a matter like this. Even though the learned counsel for the *defacto complainant* has pointed out that if anticipatory bail

is granted to these petitioners, the arrest of the 1st accused in the case would be delayed, as no legs to stand. I do not think that the petitioners can be detained in a matter like this for enabling the arrest of the 1st accused, especially when there are no other allegations against the petitioners. If there is any violation of the order of injunction passed by the civil court, it is for the concerned party to move under Order 39 Rule 2A CPC. Matters being so, I am of the view that this is a fit case wherein anticipatory bail can be granted to the petitioners.

7. In the result, these bail applications are allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners is directed to enlarge them on bail in the event of their arrest on each of them executing a bond for ₹ 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 petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Mondays and Thursdays, commencing from 16.3.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

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

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

(iv) The petitioners 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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PA to Judge

