

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. 922 of 2015

CRIME NO. RC1(S)/2013 OF C.B.I./SCB, THIRUVANANTHAPURAM
.....

PETITIONER(S)/ACCUSED NO.6:

**SANTHOSH KUMAR, AGED 43 YEARS,
S/O. ANANDAN, SANTHOSH BHAVAN, MANGALAM NAGAR,
MOONNAMKUTTY, NOW RESIDING AT FLAT NO. 8,
WEST GATE TERRACE, 1A, THEVARA,
COCHIN.**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU
SRI.P.A.RAJESH
SRI.K.RAKESH
SRI.R.RANJITH (K/489/2011)
SMT.M.LISHA**

RESPONDENT(S)/COMPLAINANT:

- 1. THE CENTRAL BUREAU OF INVESTIGATION,
REPRESENTED BY THE SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**
- 2. THE INSPECTOR OF POLICE,
C.B.I. - S.C.B., THIRUVANANTHAPURAM, PIN - 695 001.**

BY ADV. SRI.P.CHANDRASEKHARA PILLAI, C.B.I.

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

msv/

B. KEMAL PASHA, J.

.....
B.A. No.922 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 6<sup>th</sup> accused in Crime No.RC-1(S)/  
2013-CBI/SCB, Thiruvananthapuram.

3. The prosecution case is that the petitioner is  
involved in the murder of one Happy Rajesh and is also one  
of the conspirators in the criminal conspiracy, which led to  
the murder of Happy Rajesh. According to the petitioner, he  
has been in custody for the period from 26.08.2014 onwards  
and in the present case, his arrest was recorded on  
14.10.2014.

4. Heard learned counsel for the petitioner and the  
learned Standing Counsel for CBI.

5. The learned counsel for the petitioner has argued

that all the other accused in the case were enlarged on bail whereas, the petitioner is being detained unnecessarily in the case. It is also alleged that the CBI wanted to see A7, who was a Dy.S.P., to get enlarged on bail under Section 167(2) Cr.P.C. by delaying the filing of the final report in the matter for one day and at the same time, they wanted to see the petitioner should not be enlarged on bail under Section 167(2) Cr.P.C. According to the learned counsel for the petitioner, the business of the petitioner has become ruined and his wife and small children are now starving.

6. The learned Standing Counsel for the CBI has pointed out that the petitioner is not as innocent as being projected by the learned counsel for the petitioner whereas, he is a hard core criminal, not only the co-conspirator but is a direct executor, who has participated in the murder of Happy Rajesh. It has been pointed out that the petitioner is an accused in the following cases:-

| <b><i>Sl. No.</i></b> | <b><i>Crime No.</i></b>                         | <b><i>Police Station/Investigating Agency</i></b> | <b><i>Offences</i></b>                                                                                                                                     |
|-----------------------|-------------------------------------------------|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1                     | 75/2005                                         | Adoor Police Station                              | S.143, 147, 148, 451, 427 and 112 r/w 149 IPC(He is acquitted since the witnesses turned hostile)                                                          |
| 2                     | 269/2005                                        | Sasthamcotta Police Station                       | S.143, 147, 148, 447, 427 r/w 149 IPC                                                                                                                      |
| 3                     | 176/2009                                        | Punalur Police Station                            | S.143, 147, 148, 341, 326 and 307 r/w 149 IPC & S.27 of the Arms Act                                                                                       |
| 4                     | 355/2011                                        | Kottiyam Police Station                           | S.143, 147, 447, 427, 109 and 120 r/w 149 IPC                                                                                                              |
| 5                     | 290/2012                                        | Harippad Police Station                           | S.337, 338 and 304 r/w 34 IPC (He is acquitted since the witnesses turned hostile)                                                                         |
| 6                     | 906/2010                                        | Harbour Police Station                            | S.279 IPC(The case was tried as C.C.2180/2010 before JFCM-I, Kochi and he was fined to ₹1,000/-)                                                           |
| 7                     | RC13(S)/2013<br>(Babukumar Murder attempt case) | CBI/SCB/TVPM                                      | S.307 and 326 IPC                                                                                                                                          |
| 8                     | RC1(S)/2013<br>(Happy Rajesh murder case)       | CBI/SCB/TVPM                                      | S.302 IPC                                                                                                                                                  |
| 9                     | SC.1357/2014<br>(Unnithan murder attempt case)  | CBI/SCB/TVPM                                      | It is under further investigation (he was given approver status on the belief that he will give full and true disclosure of the facts, which was not done) |
| 10                    | 1666/2014<br>(C.C.562/2014 of ACJM, TvpM)       | Vanchiyoore Police Station                        | S.506(i)                                                                                                                                                   |

7. The learned Standing Counsel for the CBI has pointed out that out of the aforesaid cases, he could win over all the cases and he could enlarge on bail. According to him, no witnesses will dare to speak anything against him, in case he is on bail. It is also argued that he has got a wide web of criminal gang with him and, therefore, he will see the witnesses shall not support the prosecution. Considering the series of serious criminal antecedents on the part of the petitioner, and the circumstances pointed out by the learned Standing Counsel for the CBI, I am of the view that he is not entitled to be enlarged on bail.

In the result, this Bail Application is dismissed.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/25/02

*// True Copy //*

*PA to Judge*