IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

Bail Appl..No. 963 of 2015 ()

CRIME NO. 58/2015 OF AMBALATHARA POLICE STATION, KASARAGOD DISTRICT

PETITIONER/ACCUSED :

SATHISH BABU, AGED 34 YEARS
S/O.SHANKAR, RESIDING AT MANGALORE - MALA VILLAGE
HARINALLI P.O., HUNSUR TALUK, MYSORE DISTRICT
KARNATAKA STATE.

BY ADV. SRI.T.MADHU

RESPONDENT/STATE :

THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER
AMBALATHARA POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031

BY PUBLIC PROSECUTOR SRI. SREEJITH V.S.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24-03-2015, ALONG WITH BA. 974/2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Mn

B.KEMAL PASHA, J.

- -

B.A.Nos.963 and 974 of 2015 C

- -

Dated this the 24th day of March 2015

ORDER

Petitions under Section 438 Cr.P.C.

2. The petitioner in B.A.No.963 of 2015 is A1 and the petitioners in B.A.No.974 of 2015 are accused Nos.2 and 3 in Crime No.58/2015 of Ambalathara Police Station, Kasaragod, registered for the offences punishable under Sections 447 and 427 of the I.P.C. and section 3 of PDPP Act, 1984

3. The allegation against the petitioners is that they have caused the removal of the earth from the portion adjacent to the compound wall of the Central University of Kerala, Kasaragod,

which is the property of the Central University of Kerala, thereby causing a wrongful loss of ₹43,100/- to the Central University on account of the removal of earth. It is alleged that apart from the removal of earth, the construction of the retaining wall is required and for the same, an amount of ₹12,23,000/- has to be spent and further, a protection wall has also to be constructed and for the same, an amount of ₹10,01,000/- has to be spent.

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

5. Both the learned counsel for the petitioners submit that in case any loss is sustained to the Central University on account of the acts of the petitioners, they are ready and willing to make good such loss. They have pointed out that the Central University has ear-marked the left out portion of their property, having a width of 6 meters, for the construction of the pathway, after blocking the portion of the compound, which the local public were making use

of as the pathway. When the road was constructed, there was a portion wherein the compound wall was not constructed, having a length of around 50 metres and from that place, a rock had to be removed, for which purpose the earth had to be removed. According to the learned counsel for the petitioners, the compound wall was not destroyed in any manner and there is no chance of the compound wall becoming weak on account of the construction of the road. If at all any loss is occasioned, they are ready and willing to make good the loss. Considering the facts and circumstances of the case, I am of the view that these are fit cases wherein anticipatory bail can be granted to the petitioners on the basis of the aforesaid undertaking and on their assurance of making good the loss to the Government, by making a provision for compensating the loss sustained to the Government on account of the removal of the earth.

6. 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 in above applications, is directed to enlarge these petitioners 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) Each of the petitioners shall deposit ₹11,000/- each before the court below. The said amount shall be kept in deposit till the disposal of the case, in order to compensate the Government for the loss, if any caused.

(ii) The petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Tuesdays, commencing from 31.03.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

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

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

(v) 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

dl

// True Copy //

PA to Judge