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. 997 of 2015 ()

CRIME NO. 128/2015 OF TANUR POLICE STATION, MALAPPURAM

PETITIONER/ACCUSED NOS. 1 & 2 :

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1. PALLIYALI ENINKUTTY @ KUNHUTTY, AGED 61 YEARS,
   S/O.KUNHALAVI, ARIYALOOR AMSOM DESOM
   (PARAPPANANGADI POLICE STATION).

2. ABIDA
   W/O.ABDUL ASEES, RESIDING AT VALIYA PARAMBIL,
   P.O.THENJIPALAM, (THENJIPALAM POLICE STATION).

   BY ADV. SRI.C.K.SREEJITH

RESPONDENTS/STATE & DE-FACTO COMPLAINANT:

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1. STATE OF KERALA
   THROUGH THE STATION HOUSE OFFICER,
   TANUR POLICE STATION, MALAPPURAM DISTRICT
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM - 682 031.

2. C.P.KUMARAN, AGED 71 YEARS,
   S/O.APPUKUNHAN, CHIRAKKAPARAMBIL HOUSE,
   PARIYAPURAM AMSOM, PANANGATTUR DESOM,
   P.O.PANANGATTUR - 676 302.

   R1 BY PUBLIC PROSECUTOR SRI. LALIZA T.Y.

   THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

bp

B.KEMAL PASHA, J.

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B.A.No.997 of 2015 D

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Dated this the 9th day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are the accused in Crime No.128/2015 of Tanur Police Station, Malappuram district registered for the offences punishable under Sections 468 and 471 read with Section 34 of the I.P. C.

3. It is alleged that the first petitioner had borrowed a total amount of ₹2,00,000/- from the *de facto complainant* on two occasions and thereafter, when the *de facto complainant* demanded the amount back, he issued a cheque to the *de facto complainant* for the same amount. It has come out that the first petitioner has

defrauded and cheated the *de facto complainant* by issuing the cheque by obtaining the cheque leaf from the account of second petitioner, who is his daughter, and affixing his signature in the said cheque.

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

5. The contents of the CD, *prima facie*, reveal the complicity of the first petitioner. Apart from the fact that the cheque leaf was obtained from the accounts of the second petitioner, no other allegations are there as against the second petitioner. Matters being so, this is a fit case wherein anticipatory bail can be granted to the second petitioner. At the same time, the allegations against the first petitioner are very grave serious. Considering the seriousness against the first petitioner and the present stage of the investigation, I am of the view that the first petitioner is not entitled to the discretionary relief of anticipatory

bail.

6. In the result, this bail application is allowed in part and the investigating officer or such other police officer, who is conducting the arrest of the second petitioner, is directed to enlarge the second petitioner on bail in the event of her arrest on her 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 second petitioner 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 second petitioner shall not tamper with the evidence or influence witnesses.

(iii) The second petitioner shall make himself available for interrogation as and when required by the investigating officer.

(iv) The second 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.

This bail application, as far as the first petitioner is concerned, stands dismissed.

Sd/-
B.KEMAL PASHA,
JUDGE

dl

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PA to Judge