

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

Bail Appl..No. 1139 of 2015

CRIME NO. 4/2015 OF KASARAGOD POLICE STATION, KASARGOD DISTRICT.
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PETITIONER(S)/ACCUSED 1 & 2:

1. DEEPAK @ HAFIZ RAHMAN,
S/O.RAMACHANDRAN, AGED 34 YEARS,
KANNATH HOUSE, VETTIKATHIRI,
NEAR JYOTHI ENGINEERING COLLEGE,
CHERUTHURUTHY, THRISSUR DISTRICT.
2. SHARON, S/O.SALY, AGED 23 YEARS,
THARAYIL HOUSE, KUMARANELLOOR,
WADAKKANCHERRY, THRISSUR DISTRICT.

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA,
REPRESENTING SUB INSPECTOR OF POLICE,
KASARGOD POLICE STATION, MALAPPURAM,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT.LALIZA.T.Y

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

mbr/

B.KEMAL PASHA, J.

B.A.No.1139 of 2015 B

Dated this the 23rd day of March 2015

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioners are accused 1 and 2 in Crime No.4/2015 of Kasaragod police station registered for the offences punishable under Sections 381 and 420 of the I.P.C.

3. The allegation against the petitioners is that, while they were working as employees under the *defacto complainant*, they were entrusted with work implements having a cost of ₹ 85,847/-, which were taken on rent by the *defacto complainant*. It is alleged that sometime in between the evening on 8.12.2014 and

the morning on 9.12.2014, the petitioners had taken away the entire implements worth ₹85,847/-. The *defacto complainant* has to pay an amount of ₹66,000/- being the charges payable for those implements.

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

5. The learned counsel for the petitioners has pointed out that the petitioners had not committed any act as alleged and that in fact huge amounts were due to them from the *defacto complainant*, as arrears of wages. It is contended that when they demanded their arrears of wages, they were falsely implicated in a case like this. The contents of the CD, *prima facie*, reveal the complicity of the petitioners. It seems that the said implements, allegedly taken away by the petitioners, have not been recovered so far. This is a case wherein the custodial interrogation of the petitioners is required for the recovery of the materials allegedly taken away by

them. Considering the facts and circumstances of the case, I am of the view that this is a not fit case wherein anticipatory bail can be granted to the petitioners. At the same time, no criminal antecedents have been reported as against the petitioners. There are some disputes between the parties with regard to the arrears of wages payable to the petitioners. Considering the said aspect, I am of the view that an opportunity can be granted to the petitioners to surrender before the investigating officer and to co-operate with the investigation.

In the result, this bail application is dismissed. At the same time, if so advised, the petitioners may surrender before the investigating officer within ten days from today and in such case, the investigating officer can interrogate the petitioners, effect recovery if any, and conduct the investigation and produce the petitioners without delay before the concerned Judicial First Class Magistrate's Court, where the petitioners can move for bail. In

such case, the learned Magistrate shall pass appropriate orders, preferably on the same day itself, provided advance notice on such application has been given to the Assistant Public Prosecutor also.

Sd/-
B.KEMAL PASHA,
JUDGE

dl

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PA to Judge