IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

Bail Appl..No. 1179 of 2015 ()

CRIME NO. 1439/2014 OF KANNUR TOWN POLICE STATION, KANNUR DISTRICT

PETITIONER/ACCUSED :

ANNAMMA MATHEW, AGED 47 YEARS
D/O.LATE JOHN MATHEW, FLAT NO.11 (C-159-22 (44)
11TH FLOOR, KANNUR HEIGHTS APARTMENT
BLOCK – 1, ONDEN ROAD, OPP. AXIS BANK, KANNUR, KANNUR - 1
AMSOM, KANNUR - VILLAGE, KANNUR TALUK.

BY ADVS.SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE

RESPONDENT/COMPLAINANT & STATE :

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, KOCHI - 682 031.

*ADDL. R2 IMPLEADED
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*ADDL.R2. XAVIER KAITHARA MATHEW
AGED 50 YEARS
S/O.LATE MATHEW
FLAT NO. 9B, ROYAL HAVEN APARTMENTS
KANNUR – 670 001.

*ADDL. R2 IS IMPLEADED AS PER ORDER IN CRL.M.A. NO. 2061/2015 DATED 01.04.2015.

R1 BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.
ADDL. R2 BY ADV. SRI.BEPIN VIJAYAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01-04-2015, ALONG WITH BA. 1263/2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Mn

B. KEMAL PASHA, J.

B.A. Nos.1179 & 1263 of 2015

Dated this the 1st day of April, 2015

O R D E R

Petitions under Section 438 Cr.P.C.

2. Petitioner in B.A.1179/2015 is the second accused in Crime No.1439/2014 of Kannur Town Police Station. She is the petitioner in B.A.1263/2015 wherein she is the 2nd accused in Crime No.88/2014 of Kannur Town Police Station. Crime No.1439/2014 is pending investigation for the offences punishable under Sections 450, 324, 326, 120B and 307 read with Section 34 IPC. Crime No.88/2014 is registered for the offences punishable under Sections 120B, 406 and 420 read with Section 34 IPC.

3. The de facto complainant in both the crimes is none other than the husband of the petitioner herein. The 1st accused in both the crimes is styled as the paramour of the petitioner.

4. On 27.09.2014 at 2.55 a.m., the 1st accused had allegedly trespassed into the flat of the de facto complainant, beat him with an iron rod and caused grievous hurt with a view to committing his murder. It seems that he has sustained very serious injuries, and the act committed by the 1st accused was with a view to committing his murder. The 1st accused in the case was arrested on 30.09.2014 and ultimately, he was enlarged on bail by this Court vide order dated 14.11.2014 in B.A.7279/2014. The petitioner has been absconding.

5. The allegation in Crime No.88/2014 is that for the period from March 2005 to December 2010, the petitioner and the 1st accused had hatched a criminal conspiracy to cheat the de facto complainant and thereby, the petitioner had transferred an amount of ₹1,25,00,000/-, which was entrusted to her by the de facto complainant while they were living together abroad, for depositing in their account, to the 1st accused by way of money transfer through UAE

Exchange, Muthoot Finance, etc. It seems that all the said amounts were illegally transferred by the petitioner to the 1st accused without the knowledge and consent of the de facto complainant. Further, it is alleged that the petitioner had conspired with the 1st accused to do away with the de facto complainant, and that she gave the duplicate key of the flat of the de facto complainant to the 1st accused for gaining entry into the flat.

6. Heard learned counsel for the petitioner, learned counsel for the de facto complainant and learned Public Prosecutor.

7. The contents of the CD *prima facie* reveal the complicity of the petitioner in both the crimes. The investigating officer has reported that it was the petitioner, who had handed over the spare key of the flat with her to the 1st accused for gaining entry into the flat for attempting to commit the murder of the de facto complainant. It is alleged that the petitioner had illicit sexual relationship with

the 1st accused and two other persons. The said relationship was traced out by the de facto complainant and thereafter, the petitioner wanted to exterminate the de facto complainant and his children in order to become the sole legal heir of the de facto complainant in respect of his properties. As the de facto complainant became frightened that she would do away with his children also, he was residing separately from her. On coming to know that his entire money had reached the hands of the 1st accused through the petitioner, the de facto complainant had obtained an attachment of the properties of the 1st accused in the OP filed by him before the family court.

8. The investigating officer has reported that the mobile phone details of the petitioner have revealed that after 7 p.m. on 27.09.2014 the petitioner had travelled towards Mangalapuram and from 9 p.m. onwards, her mobile phone remained switched off and the same was switched on only at 8.20 p.m. on 28.09.2014. It has to be

noted that it was on 27.09.2014 very serious injuries were inflicted by the 1st accused on the de facto complainant. The investigating officer has further reported that the mobile phone details of the petitioner and the 1st accused have revealed that they were in frequent contacts with each other. The allegations against the petitioner are very grave and serious. Considering the seriousness of the allegations against the petitioner, especially when an offence under Section 120B is also alleged, these are cases in which the custodial interrogation of the petitioner is required for the continued investigation of this case. Matters being so, I am of the view that these are not fit cases wherein anticipatory bail can be granted to the petitioner.

In the result, these bail applications are dismissed.

Sd/-

(B.KEMAL PASHA, JUDGE)

aks/01/04

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PA to Judge