

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

Bail Appl..No. 1406 of 2015

CRIME NO. 44/2015 OF KAMBALAKKAD POLICE STATION, WAYANAD.

PETITIONER/3RD ACCUSED:

**SUGANDHANATH A.,
S/O.K.M.SATHYANATHAN,AGED 23 YEARS AZHIKODAN HOUSE
NEELESWARAM P.O., KASARAGOD DISTRICT.**

**BY ADVS.SRI.I.V.PRAMOD
SRI.S.U.NAZAR**

RESPONDENT(S)/COMPLAINANT/STATE:

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

BY PUBLIC PROSECUTOR SMT.MADHUBEN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 10-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

SUNIL THOMAS, J.

B.A. No.1406 of 2015

Dated this the 10th day of July, 2015

O R D E R

The applicant is the third accused in Crime No.44/2015 of Kambalakkad Police Station, for offences punishable under Section 420 read with Section 34 of IPC.

2. The allegation of the de facto complainant is that the accused persons three in number promised to arrange an MBBS seat for the son of the defacto complainant, collected a sum of Rs.45Lakhs and cheated them by not arranging the seat. It is stated that the money was not returned also. Hence, a complaint was lodged and a crime was registered. The petitioner apprehends arrest and seeks pre-arrest bail.

2. Heard and examined the records.

3. The stand taken by the petitioner herein, who is a student of Sharawathy Dental College, Shimoga, is that his friend Prince Jose sought his help for getting a medical seat for his uncle's son, whereupon he referred to the name of the second accused whom, according to the petitioner, he knew being his neighbour. According to him, he had a knowledge that the second accused does the transaction of arranging medical seat for the aspirants. It is further contended that apart from a mere reference, he has not committed

any offence, nor conspired with the remaining accused. It is further contended that the first accused is not known to him also. Reference to the case diary indicates that the crux of the allegation against first accused is that the third accused proposed the name of the first and second accused and thereby induced faith and confidence in the alleged transaction. Evidently, this is a question of state of mind. Whether the involvement of the third accused is of a higher degree than the mere reference to the name of accused 1 and 2, is a matter which the Investigating Agency has to ascertain from the attending circumstances. Enquiry conducted till now has not revealed any further overtact than the above. Probably investigation may have to go further. There is nothing on record also to show that the petitioner herein is not involved in any other identical or similar offences.

4. Considering the above facts, I feel that the benefit of pre-arrest bail can be granted to the petitioner subject to the following conditions:

i). The petitioner shall appear before the Investigating Officer on 22/7/2015 between 9 and 10 a.m. He shall offer himself for interrogation and after the conclusion of the interrogation, if the investigating officer feels that he is liable to be arrested, he shall be released on bail on he executing a bond for Rs.50,000/- (Rupees Fifty

Thousand only) with two solvent sureties for the like sum.

ii). The petitioner shall not get involved in any other identical offence on similar nature .

Iii). The petitioner shall co-operate with the investigation and shall not, threaten, coerce or intimidate the defacto complainant and the witnesses.

iv). He shall surrender his passport, if any, before the jurisdictional Magistrate within one month from today and in any case, he is not possessing it, he shall file an affidavit before the learned Magistrate to that effect. Thereafter, any request for return of passport can be considered by the Jurisdictional Magistrate on merit.

The petition is allowed as above.

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ PS to Judge.

