

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Bail Appl..No. 1606 of 2015 ()

CRIME NOT REGISTERED, KAYAMKULAM POLICE STATION

PETITIONER/ACCUSED :

**SHOOJAKHAN, AGED 39 YEARS,
S/O.IBRAHIM RAWTHER, PALLITHEKATHIL, THAZHAMELMURI,
ANJAL VILLAGE, PATHANAPURAM TALUK.**

BY ADV. SRI.K.R.SUNIL

RESPONDENTS/COMPLAINANT :

**1. THE CIRCLE INSPECTOR OF POLICE, KAYAMKULAM
POLICE STATION, KAYAMKULAM
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA - 682031.**

**2. THE SUB INSPECTOR OF POLICE,
KAYAMKULAM POLICE STATION, KAYAMKULAM
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA 682031**

BY PUBLIC PROSECUTOR SMT. MADHUBEN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 13-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

SUNIL THOMAS, J.

B.A. No. 1606 of 2015

Dated this the 13th day of July, 2015

ORDER

The petitioner is the 2nd accused in Crime No. 763/2015 of Kayamkulam Police Station for offences punishable under Section 406, 420 and 17 of the Kerala Money Lenders Act.

2. The allegation of the de facto complainant is that he had borrowed a sum of Rs. 9,25,000/- from the 1st accused and his property was given as a security, in the form of a sale deed. He alleged that there was an understanding that in case the money due was repaid, it would be reconveyed. It is alleged that the 1st accused thereafter assigned it to 2nd accused in March 2014, who in turn assigned it to 3rd accused on 05.02.2015. Alleging that the accused have committed cheating, the defacto

complainant moved the learned Magistrate by filing a complaint. It was forwarded by the Magistrate to Jurisdictional Police Station, invoking section 156(3) of Cr.PC. Apprehending arrest, in the Crime registered, the 2nd accused has approached this Court seeking bail.

3. The contention of the learned counsel for the petitioner herein is that, after he had validly purchased the property from the 1st accused, thereafter due to certain reasons, it was proposed to be reconveyed to the 1st accused and on his instruction it was assigned to his wife, namely the 3rd accused. It appears that the entire transaction between these three persons are borne by registered documents. The contention of the de facto complainant is that essentially it was a money transaction. The de facto complainant himself is setting up a transaction different from the recitals in a registered document. What exactly was the transaction between the parties and whether apart from the recital available in the

registered documents, there are certain other transactions, and if so, whether they are legally sustainable are matters to be gathered from detailed investigation.

4. The above facts do not reveal that a custodial interrogation is essential for the purpose of this investigation.

In the above circumstances, I feel that bail can be granted to the petitioner, subject to the following strict conditions:

1. The Petitioner shall appear before the Investigating Officer on 22.07.2015 between 9 a.m and 10 a.m. He shall offer himself for interrogation and thereafter in the event of his arrest, he shall be released on bail on he executing a bond for a sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with two sureties for the like sum each.
2. He shall not in any manner, threaten, coerce or

intimidate the witnesses and shall not interfere with investigation process.

Sd/-
SUNIL THOMAS
JUDGE

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