

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

Bail Appl..No. 1607 of 2015 ()

AGAINST THE ORDER IN Bail Appl.10440/2011 of HIGH COURT OF KERALA,
DATED 18.02.2011 IN
CRIME NO. 659/2011 OF KOZHIKODE TOWN POLICE STATION, KOZHIKODE

PETITIONER(S)/PETITIONER/ACCUSED NO 1:

SANJEEV KUMAR K.P., AGED 43 YEARS,
S/O.LATE ASKOK KUMAR, NOW R/A.KARTHIKA, PALLIKUNNU P.O.,
KANNUR.

BY ADV. SRI.P.M.HABEEB

RESPONDENT(S)/RESPONDENTS:

STATE OF KERALA,
REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM-31, (STATION HOUSE OFFICER,
TOWN POLICE STATION, KOZHIKODE).

BY PUBLIC PROSECUTOR SRI. JOBY JOSEPH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SS

K. RAMAKRISHNAN, J.

Bail Application No.1607 of 2015

Dated this the 22nd day of July, 2015

ORDER

This is an application filed by the 1st accused in Crime No.659/2011 of Kozhikode Town police station for anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in nut shell was that, the accused persons in furtherance of their common intention and conspiracy hatched created forged documents and used the same as genuine and thereby they have cheated the defacto-complainant and thereby all of them have committed the offence punishable under Sections 420, 465, 468, 471, 120(B) and Section 34 of the Indian Penal Code.

3. Heard the counsel for the petitioner and learned Public Prosecutor and also perused the case diary file.

4. The counsel for the petitioner submitted

that, though earlier the application for anticipatory bail was dismissed by this court, since charge has already been filed and his custody is not required, so that change of circumstances can be considered and anticipatory bail may be granted.

5. The application was opposed by the Public Prosecutor on the ground that in spite of direction to surrender, but he did not surrender.

6. It is seen from the records that, he is the sole accused in the case now and other accused were deleted and charge sheet has been filed. It is also seen from the report of the investigating officer that originally the crime was registered against four accused persons including the petitioner and other six accused persons alleging commission of the offence under Section 420, 468, 471, 120 (B) and Section 34 of the Indian Penal Code. After investigation final report was filed only against the present petitioner alleging offence under Section 420, 468 and 471 of the Indian Penal Code alone. It is also seen from the

documents produced by the petitioner himself that earlier anticipatory bail application filed by the petitioner were dismissed by this court directing the petitioner to surrender before the concerned magistrate court and move for regular bail. This order was dated 29.10.2014. Prior to that, he made an application for anticipatory bail and this court by order dated 18.02.2014 directed the petitioner to surrender before the investigating officer at 10.00 a.m on 24.02.2014 and he was directed to interrogate the petitioner and further directed that the other directions in the order dated 21.12.2011 in Bail Application No.10440/2011 to the extent concerning the petitioner would remain in force. It is further ordered that, if petitioner does not surrender as afore said, then the order dated 21.12.2011 would ceased to be effective and it is also seen from the allegation of the petitioner itself that he filed CrI.M.C.No.1939/2012 for quashing the proceedings and stay was granted by this court and later the matter was disposed of on 21.01.2014.

7. So under the circumstances, merely because

final report has been filed, in view of the circumstances mentioned above, the petitioner is not entitled to get anticipatory bail as of right. Since final report has already been filed, he can very well surrender before the concerned magistrate court and move for regular bail. If the petitioner surrenders before the concerned magistrate court and moves for regular bail, then that court is at liberty to consider and dispose of the bail application, after hearing the Assistant Public Prosecutor of that court in accordance with law as far as possible on the date of filing of the application itself.

With the above direction and observation, the petition is disposed of.

Sd/-

K. Ramakrishnan, Judge

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P.A. to Judge

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