

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. 1684 of 2015 ()  
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CRIME NO. 2369/2014 OF ADOOR POLICE STATION, PATHANAMTHITTA

PETITIONER/ACCUSED:  
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GRACY BABY, AGED 58 YEARS,  
W/O. LATE K. BABY,  
RESIDING AT G.B.VILLA, POTTADI MURI,  
PERINGANAD VILLAGE, ADOOR TALUK,  
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.SAKIR.K.H.

RESPONDENT/COMPLAINANT:  
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STATE OF KERALA  
THROUGH THE SUB INSPECTOR OF POLICE,  
ADOOR POLICE STATION,  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT. LILLY LESLIE

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

**K. RAMAKRISHNAN, J.**

.....  
B.A.No.1684 of 2015  
.....

Dated this the 22<sup>nd</sup> day of July, 2015.

**O R D E R**

This is an application for anticipatory bail filed by the petitioner, who is the accused in Crime No.2369/2014 of Adoor police station under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that the accused had entrusted construction of a house with the defacto complainant and though he had completed the construction, there is an amount of more than Rs. 8 lakhs is due which she had not paid and thereby she had committed the offence punishable under section 420 of the Indian Penal Code.

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

4. Counsel for the petitioner submitted that in fact there is some dispute regarding the amount payable and according to the calculation of the petitioner, some amount is due to her from the complainant and no criminal offence has been committed. Custody of the petitioner is not required in connection with the

investigation as well. She is a lady and widow.

5. The application was opposed by the Public Prosecutor on the ground that investigation is not over.

6. It is seen from the records that the above crime was registered on the basis of a statement given by the defacto complainant against the petitioner alleging commission of the above said offence. It is admitted by both sides that there was an agreement entered into between the petitioner and the defacto complainant regarding the construction of a work and it is also in a way admitted that some amounts were paid by the accused to the contractor towards the construction charges as agreed between them. According to the complainant, after the completion of the work, an amount of more than Rs.8 lakhs is due and that amount has not been paid. The petitioner is disputing the correctness of the amount claimed by the contractor, who is the defacto complainant. She had also produced Annexure-AI complaint said to have been filed by her before the District Police Officer, Pathanamthitta against the defacto complainant in this case in respect of the same issue. It is not known as to what happened to that complaint. However considering the nature of dispute raised in the complaint, I am

not at this stage going into the question as to whether offence under section 420 of the Indian Penal Code is attracted or not. But custodial interrogation of the petitioner is not required in connection with the investigation considering the fact that she is a lady and widow and directing the petitioner to appear before the investigating officer for the purpose of interrogation will be sufficient and that will meet the ends of justice.

7. So, the application is allowed as follows:

i. If the petitioner is arrested in connection with the above crime by the investigating officer or the arresting officer, then they are directed to release the petitioner on bail on executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the sanctification of the arresting officer/ investigating officer as the case may be.

ii. The petitioner shall appear before the investigating officer for three consecutive days between 10 a.m and 1 p.m for the purpose of interrogation immediately after such arrest and release and thereafter as and when required by him for this purpose in writing to do so till the final report is filed.

iii. The petitioner shall not leave State of Kerala without getting prior permission from the Judicial First Class Magistrate

Court, Adoor till the disposal of the case.

iv. If the petitioner surrenders before the Judicial First Class Magistrate Court, Adoor and moves for regular bail, then the learned Magistrate is directed to release the petitioner on bail on the same conditions as stated above.

With the above directions, this application is allowed.

**Sd/-**

**K. RAMAKRISHNAN, JUDGE.**

/true copy/

P.S to Judge

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