IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

Bail Appl..No. 1901 of 2015 ()

CRIME NO. 1442/2011 OF FORT POLICE STATION, THIRUVANANDAPURAM

PETITIONER/ACCUSED :

RAJESH EBRAHIMKUTTY, AGED 36 YEARS,
S/O. EBRAHIMKUTTY, 76B JAKKUR, YELAHANKA,
BANGALORE - 560064.

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANTH
SRI.VINOD.V (EDAPPUNATHIL)
SRI.G.RENJITH
SRI.C.DINESH
SMT.ASHA BABU
SMT.AMMU CHARLES
SMT.JINNU SARA GEORGE

RESPONDENT/STATE & COMPLAINANT :

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM - 682031.

2. THE STATION HOUSE OFFICER,
FORT POLICE STATION,
THIRUVANANDAPURAM - 695004.

R1 & R2 BY PUBLIC PROSECUTOR SRI. SREEJITH V.S.
BY ADV. SRI.T.K.ANANDA KRISHNAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

bp

B. KEMAL PASHA, J.

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B.A. No.1901 of 2015

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Dated this the 9th day of April, 2015

O R D E R

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Petition under Section 438 Cr.P.C.

2. Petitioner is the 1st accused in Crime No.1442/2011 of Fort Police Station, Thiruvananthapuram registered for the offences punishable under Sections 409, 420, 467, 471 and 120B read with Section 34 IPC.

3. The allegation against the petitioner is that he along with the 2nd accused and the 3rd accused, who is the Manager of Dena Bank, Fort Branch, Thiruvananthapuram, hatched a criminal conspiracy to defraud and cheat the de facto complainant and thereby the 3rd accused took and handed over the title deeds and all other documents furnished by the de facto complainant by way of security in respect of another loan arrangement, to the petitioner and the 2nd accused. It is alleged that all the three accused

pursuant to the conspiracy, forged false documents by forging the signatures of the de facto complainant in order to make it appear that the said documents were furnished as security for another loan and obtained a loan of ₹45 lakhs from the bank thereby they have defrauded and cheated the de facto complainant.

4. Heard learned Senior Counsel for the petitioner, learned counsel for the de facto complainant and learned Public Prosecutor.

5. It seems that the 3rd accused has played the major part in the incident as he had taken away and allegedly handed over those documents to A1 and A2. In fact, it cannot be said that the documents were handed over to A1 and A2 as the documents were again furnished as security to the concerned loan in this case, at the very same bank. The learned Senior Counsel for the petitioner has pointed out that the petitioner is a leading businessman, who is running an airlines, and he is being tortured and

harassed by the de facto complainant, who was his earlier business partner. Whatever it is, it seems that the 3rd accused, who is the Manager, has been dismissed from the service of the bank. The matter has to be investigated thoroughly. The investigating officer has sought for the custodial interrogation of the petitioner.

6. The learned Senior Counsel for the petitioner has offered sufficient security for the co-operation of the petitioner to the continued investigation in this case. Considering the facts pointed out by the learned Senior Counsel, I am of the view that anticipatory bail can be granted to the petitioner on condition of the petitioner's depositing an amount of ₹45 lakhs in any of the nationalised banks in Ernakulam as Fixed Deposit and his producing the Fixed Deposit receipt before the court below, within a period of one month from today. The Fixed Deposit shall be renewed timely and its lien has to be noted in favour of the court below.

7. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioner, is directed to enlarge the petitioner on bail in the event of his arrest on his executing a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) The petitioner shall deposit ₹45 lakhs in any of the nationalised banks in Ernakulam as Fixed Deposit and shall produce the Fixed Deposit receipt before the court below, within a period of one month from today. The same shall be kept till the disposal of the case, in order to secure the liability, if any, towards the de facto complainant.

(ii) The petitioner shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Thursdays and Mondays commencing from 16.04.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(iii) The petitioner shall surrender his passport before the court below.

(iv) The petitioner shall not tamper with the evidence or influence witnesses.

(v) The petitioner shall make himself available for interrogation as and when required by the investigating officer.

(vi) The petitioner shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/09/04

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PA to Judge