

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. 1920 of 2015

CRIME NO. 909/2015 OF CHANGANASSERY POLICE STATION, KOTTAYAM
.....

PETITIONER(S)/3RD ACCUSED:

**KANNAN, AGED 23 YEARS,
S/O. JOHNY JOSEPH, OLIKAROTTU HOUSE, KURISHUMOOD,
CHANGANACHERRY**

**BY ADVS.SRI.K.SURESH
SRI.ABHISHEK KURIAN**

RESPONDENT(S):

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY SENIOR PUBLIC PROSECUTOR SRI.C.RASHEED

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

msv/

K.RAMAKRISHNAN, J.

Bail.Appln.No.1920 of 2015

Dated this the 22nd day of July, 2015

ORDER

This is an application for anticipatory bail, filed by the third accused in Crime No.909/2015 of the Changanacherry Police Station under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter called the 'Code').

2. The case of the prosecution in nutshell was that the accused persons, in furtherance of their common intention, criminally trespassed into the shop of the defacto complainant and abused him and also caused damage and committed robbery and thereby all of them have committed the offences punishable under Sections 452, 427, 294(b), 394 and 34 of the Indian Penal Code.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor and perused the Case Diary file.

4. The learned counsel for the petitioner submitted that the petitioner has not committed any offence and he is innocent of the same and he is a student studying in Bangalore. The accused Nos.1 and 2 were already granted bail. There are civil cases pending in respect of the shop between the defacto complainant and the first accused.

5. The application was opposed by the learned Public Prosecutor.

6. It is seen from the records that the above case was registered on the basis of the statement given by the defacto complainant against three accused persons including the petitioner, alleging offences under Sections 452, 394, 294(b), 477 and 34 of the Indian Penal Code. It is also seen from the documents produced that there were civil cases pending between the parties in respect of the property in dispute. However, considering the fact that the accused Nos.1 and 2 were already granted bail by the court below, this Court feels that the petitioner can also surrender before the court below and move for regular

bail and this Court feel that it is not a fit case invoke the power under Section 438 of the Code, to grant anticipatory bail. If the petitioner surrenders before the concerned Magistrate court and moves for regular bail, then the learned Magistrate is directed to consider and dispose of the bail application after hearing the Assistant Public Prosecutor of that court strictly in accordance with law, as far as possible on the date of filing the application itself.

With the above direction and observation, the application is dismissed.

Sd/-
K.RAMAKRISHNAN
JUDGE

VS