

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 17TH DAY OF APRIL 2015/27TH CHAITHRA, 1937

Bail Appl..No. 1963 of 2015 ()

CRIME NO. 321/2015 OF AREACODE POLICE STATION, MALAPPURAM

PETITIONER(S)/ACCUSED :-

ABDUL NISAM, AGED 32 YEARS
S/O.MAMMEDKUTTY, PALAPPARAMBIL HOUSE, KEEZHUPARAMBU
AREACODE, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS/STATE & COMPLAINANT :-

1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.
2. THE SUB INSPECTOR OF POLICE,
AREACODE POLICE STATION, MALAPPURAM DISTRICT
PIN-673638.

BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17-04-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

jvt

C.T.RAVIKUMAR, J

B.A.No.1963 of 2015

Dated this the 17th April, 2015

O R D E R

This is an application filed under Section 438 of the Code of Criminal Procedure.

2. Petitioner is the sole accused in Crime No.321/2015 of Areacode Police Station, registered for the offences punishable under Section 379 IPC and Sections 20 and 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 (for short, "the Act"). The prosecution case is that the vehicle of the petitioner bearing registration No.KL-07BB/6785 was seized by the second respondent on the allegation that the vehicle was used for transportation of river sand illegally without a valid permit. The further allegation was that the vehicle was abandoned by the driver on seeing the Police and the Police seized the vehicle along with the load of sand.

3. I have heard learned counsel for the petitioner and the learned Public Prosecutor.

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4. The contention of the petitioner is that he was implicated in the case only on the ground that he is the registered owner of the vehicle. It is further contended by the petitioner that incorporation of Section 379 IPC was only with a view to see that the petitioner is arrested and incarcerated. It is also contended that the Act being a special enactment to deal with the illegal transport of river sand and that the Court can take cognizance of offence only on a written complaint by an authorised officer for offence under the Act, registration of crime under Section 379 IPC can only be a technical offence. At any rate, learned counsel for the petitioner submitted that custodial interrogation is not required, as the material objects along with the vehicle were already seized.

5. The learned Public Prosecutor vehemently opposed the same. She submitted that the arrest of the petitioner is required and the petitioner cannot contend that since the material objects along with the vehicle were already seized, there is no need of a custodial interrogation.

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6. Taking note of the fact that the sand as well as the vehicle involved in the case were already seized, I am of the view that this application can be disposed of as under:

I. The petitioner shall surrender before the Investigating Officer on or before 25.4.2015 between 8 a.m and 10 a.m for interrogation and upon his surrender, after interrogation in the event of arrest, he shall be enlarged on bail on his executing a bond for ₹25,000/- (Twenty five thousand 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 report before the Investigating Officer in between 9 a.m and 11 a.m on all Wednesdays and Saturdays commencing from 25.4.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.
- (ii) The petitioner shall not tamper with the evidence or influence witnesses.

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- (iii) The petitioner shall make himself available for interrogation as and when required by the Investigating Officer.
- (iv) 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/-
C.T.RAVIKUMAR
JUDGE**

//TRUE COPY//

P.S. TO JUDGE

vgs18/4/15