

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. 2292 of 2015 ()

AGAINST THE ORDER IN CRMC 266/2015 of II ADDL.SESIONS COURT,
ERNAKULAM, DATED 10-02-2015

&

AGAINST THE ORDER/JUDGMENT IN CMP 6211/2013 of J.M.F.C-I,
KOTTAYAM IN CRIME NO.659/2015 OF ANGAMALI POLICE STATION, ERNAKULAM

PETITIONER(S)/ACCUSED 1.3.AND 4:

1. SULUMOL SEBASTIAN, AGED 25 YEARS,
D/O SENBASTIAN, RESIDING AT POOVATHINKAL HOUSE,
VADAVATHOOR P.O, KOTTAYAM.
2. MONAY K.R., AGED 32 YEARS,
S/O K. RAJAN, ELAVUMKALKANTU HOUSE, NARIYANY,
KOTTAYAM.
3. JUSTIN JOSEPH @ BABU, AGED 28 YEARS,
S/O JOSEPH, RESIDING AT ARIMANNEL HOUSE,
VALIYATHAVALA, KATTAPPANA.

BY ADVS.SRI.C.D.JOHNY
SMT.MEREENA JOSEPH

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, 682 031.
(ON BEHALF OF SUB-INSPECTOR OF POLICE,
ANGAMALY POLICE STATION)

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.

Bail Application No.2292 of 2015

Dated this the 22nd day of July, 2015

ORDER

This is an application filed by accused Nos.1, 3 and 4 in Crime No.659/2015 of Angamaly 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 induced the defacto-complainant on the promise of obtaining a job abroad had obtained ₹2,25,000/- and thereafter they neither paid the amount nor procured visa as promised and thereby they have committed the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

3. Heard the counsel for the petitioner and learned Public Prosecutor and also perused the records.

4. The counsel for the petitioner submitted that, in fact there is no role for the petitioners in the transaction. When the defacto-complainant approached her, she had only directed to meet the employer and accordingly they contacted him and passed the amount to him and they have no connection in the inducement. Further the counsel also submitted that the anticipatory bail application filed by the 2nd accused was disposed of by this court as per order in Bail Application No.1971/2015.

5. The application was opposed by the Public Prosecutor on the ground that the investigation is still in progress.

6. The above case was registered on the basis of the statement given by the defacto-complainant against four accused persons including the petitioners, alleging commission of the offence under Section 420 read with Section 34 of the Indian Penal Code. The allegation was that, they induced the defacto-complainant to part with an

amount of ₹2,25,000/- on the promise of getting an employment visa for her daughter-in-law, brother's wife and sister in Kuwait on 20.08.2013. Thereafter they had neither given the visa nor had they returned the amount. The investigation is in the preliminary stage. It is true that the petitioner had produced a copy of the complaint alleged to have been filed by the 2nd accused against one Jabir Purayil and others as Crl.M.P.No.6211/2013 before the Judicial First Class Magistrate Court-I, Kottayam. But it is not known as to whether this has been sent to police for investigation or Magistrate has passed any orders on that application so far. But the counsel submitted that, it is forwarded to the police for investigation and a crime was registered. It is not known as to what happened to that investigation. However, this court while considering the bail application filed by the 2nd accused, came to the conclusion that, it is not a fit case to grant anticipatory bail and directed the 2nd accused to surrender before the

investigating officer within 10 days and if he surrenders before the investigating officer, they are directed to produce before the Magistrate Court on the same day of surrender after interrogation, if the investigating officer feels that their arrest and custody is required. If the application for bail is filed, then the court below is at liberty to dispose of that application in accordance with law.

So this court feels that, the same yardstick can be applied in this case also considering the fact that first accused is a lady. So the petitioners are not entitled to get anticipatory bail, but they are directed to surrender before the investigating officer before 9.00 a.m. on any day within 10 days from today for the purpose of interrogation as part of the investigation. If the investigating officer feels that their arrest is required, then record their arrest and produce them before the concerned magistrate court without delay and on such production, if the petitioners move for regular bail, then learned magistrate is directed to

consider and dispose of the bail application in accordance with law. If they did not surrender before the investigating officer as directed by this court, then the benefit of this order will not be available to them.

With the above observation, the petition is dismissed.

Sd/-
K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge

ss