

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

Bail Appl..No. 2319 of 2015 ()

**CRIME NO. 348/2015 OF NEDUMANGAD POLICE STATION,
THIRUVANANDAPURAM DISTRICT**

PETITIONER/ACCUSED :

**SALIM, AGED 49 YEARS,
S/O. ASANAR, BISMIL HOUSE, PERAYATHUKONAM,
MUKKOLA P.O., NEDUMANGAD,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS/STATE AND COMPLAINANT :

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. DEPUTY SUPERINTENDENT OF POLICE,
NEDUMANGAD, THIRUVANANTHAPURAM DISTRICT.**
- 3. SUB INSPECTOR OF POLICE,
NEDUMANGAD POLICE STATION,
THIRUVANANTHAPURAM DISTRICT.**

R1 TO R3 BY PUBLIC PROSECUTOR RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 26-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

B.SUDHEENDRA KUMAR, J.

Bail Application No.2319 of 2015

Dated this the 26th day of June 2015

O R D E R

The petitioner is the accused in crime No.348/2015 of Nedumangad Police Station registered under Sections 294(b), 323, 324 and 341 I.P.C. and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The petitioner has filed this application praying for the relief under Section 438 Cr.P.C.

2. Heard.

3. The learned Public Prosecutor has opposed the application.

Since the offences alleged against the petitioner include the offence

under the SC/ST Act also, there is express bar under Section 18 of SC/ST Act in granting relief under section 438 Cr.P.C. In the said circumstances, I am not inclined to grant the relief as sought for, in this application. However, I make it clear that there is no restriction on the powers of the magistrate in granting regular bail, to persons accused of having committed the offence under the SC/ST Act, on the basis of the general principles enunciated in Section 437 Cr.P.C, as there is no special provision under the SC/ST Act, analogous to Section 37 of the NDPS Act or Section 41A of the Abkari Act, specifically excluding the powers of the Magistrate to grant bail to the persons accused of such offence.

In the result, this application stands dismissed. However, the petitioner shall be at liberty to surrender before the investigating officer within ten days from today, if so advised. In the event of such surrender before the investigating officer, the investigating officer shall produce the petitioner before the

jurisdictional Magistrate after interrogation. If the petitioner files any application for bail on such production before the jurisdictional Magistrate, the learned Magistrate shall consider and dispose of the application for bail, in accordance with law, in the light of the observations made in this order, as expeditiously as possible, preferably on the date of production itself.

**Sd/- B.SUDHEENDRA KUMAR,
JUDGE**

dl

/true copy/

P.S to Judge