

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 5TH DAY OF MAY 2015/15TH VAISAKHA, 1937

Bail Appl..No. 2394 of 2015 ()

CRIME NO. 136/2015 OF KUMBALA POLICE STATION , KASARGOD DISTRICT

PETITIONER/ACCUSED:

**ABDUL NABI, AGED 24 YEARS,
S/O.MUHAMMED JAFER, KALARA HOUSE,
NEAR KALARA JUMA MASJID, KADMBA VILLAGE,
PUTHUR TALUK, KARNATAKA STATE.**

BY ADV. SRI.A.ARUNKUMAR

RESPONDENTS/COMPLAINANT/STATE:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF EKRALA, ERNAKULAM-682 0150**
- 2. THE STATION HOUSE OFFICER,
(CRIME NO.136 OF 2015 OF KUMBALA POLICE STATION,
KASARAGOD DISTRICT)- 671 316**

BY PUBLIC PROSECUTOR SRI.R.GITHESH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 05-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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K.RAMAKRISHNAN, J.

B.A.No.2394 OF 2015

Dated this the 5th day of May, 2015

ORDER

Accused in Crime No.136/15 of Kumbala Police Station has filed this application for regular bail under Section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that between 30.1.2015 and 1.3.2015 while the petitioner was working as Salesman in the petrol pump of the defacto complainant, fabricated the meter of the pump and misappropriated 3149 liters of diesel and 696 liters of petrol for a value of Rs.2,20,000/- and thereby committed the offence punishable under Sections 406 and 420 of the Indian Penal Code.

3. Heard the counsel for the petitioner Sri.A.Arunkumar, the learned Public Prosecutor Sri.Githesh.R and perused the case diary file.

4. The counsel for the petitioner submitted that the petitioner has not committed any offence and he is innocent of the same. The allegations are not sufficient to attract any of the offences alleged. He is in jail from 7.3.2015 onwards.

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

6. It is seen from the case diary file that the above case was registered on the basis of the complaint of the defacto complainant alleging commission of the above said offence. The period of alleged misappropriation of diesel and petrol spread over for a period of two months. It is true that huge quantity of diesel and petrol was alleged to have been misappropriated. Petitioner was arrested on 7.3.2015 and he is in jail from that day onwards. There is no possibility of witnesses being influenced by the petitioner considering his position in the society. Further custody of the petitioner is not required any more in connection with the investigation of the case. The apprehension of the Prosecutor that since the accused belongs to the Karnataka State, if he is released on bail he is likely to abscond can be removed by imposing stringent conditions.

7. Considering the circumstances of the case and also the period of pre-trial investigation and the stage of investigation, this

court feels that bail can be granted to the petitioner with some stringent conditions. So, the application is allowed with the following conditions:

- (1) The petitioner shall be released on bail on executing a bond for Rs.25,000/- with two solvent sureties for the like sum each to the satisfaction of the Chief Judicial Magistrate, Kasargod and one of the sureties must be a surety from Kasargod district.
- (2) The petitioner shall appear before the investigating officer on all Mondays and Saturdays between 9 a.m. and 10 a.m. for a period of two months and thereafter on the last Saturday of every month between the same timings till the final report is filed.
- (3) The petitioner shall appear before the investigating officer for the purpose of interrogation in connection with the above crime as and when required in writing to do so till the final report is filed.
- (4) The petitioner shall not leave the jurisdiction of Kasargod District without getting prior permission from the Chief Judicial Magistrate, Kasargod till the disposal of the case.
- (5) The petitioner shall surrender his passport, if any, before the Chief Judicial Magistrate, Kasargod within one week from the date of release or if he is not having any passport, file an affidavit to that effect before that court within

that time.

- (6) The petitioner shall furnish the residential address in Kasargod district within one week from the date of his release for the purpose of contacting him by the investigating officer in connection with the investigation.

With the above conditions, this application is allowed.

**K.RAMAKRISHNAN,
Judge**

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