

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Bail Appl..No. 2399 of 2015 ()

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CRIME NO. 1017/2014 OF NALLALAM POLICE STATION, KOZHIKODE DISTRICT.**

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APPLICANT/ACCUSED:

**DR.M. ASSAN KOYA, AGED 70 YEARS,
S/O. DR. MUHAMMED, SHELTER HOUSE,
FEROKE, KOZHIKODE DISTRICT.**

**BY SRI.P.VIJAYA BHANU, SENIOR ADVOCATE.
ADVS. SRI.M.REVIKRISHNAN,
SRI.VIPIN NARAYAN.**

RESPONDENT/COMPLAINANT:

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

BY SRI.T. ASAF ALI, DIRECTOR GENERAL OF PROSECUTION.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

K.RAMAKRISHNAN, J.

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B.A. No.2399 of 2015

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Dated this the 28th day of April, 2015

O R D E R

This is an application for regular bail filed by the sole accused in Crime No.1017/2014 of Nallalam Police Station of Kozhikode district under Section 439 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that the petitioner had admitted a patient by name Mohammed Asharaf who was the staff in Munniyoor Higher Secondary School of Malappuram district and he had issued a fabricated wound certificate regarding the treatment of the patient, in order to help the de facto complainant in that case and thereby he had committed the offences punishable under Sections 195, 197 and 468 of the Indian Penal Code (hereinafter referred to as IPC).

3. Heard the learned Senior counsel appearing for the petitioner Sri.P.Vijaya Bhanu and Sri. Asaf Ali, the learned Director General of Prosecution.

4. The learned Senior counsel for the petitioner submitted that no offence under Sections 195, 197 and 468 IPC is attracted. Further the incident happened in the year 2013 and he was admitted in the hospital and the allegation was that fracture was noted so as to make the offence grave and to harass the accused in that case and he is in jail from 14.04.2015 onwards. Petitioner is a senior Doctor in the hospital and he is aged seventy years and his custody is not required further and he is prepared to co-operate with the investigation.

5. The application was opposed by the Director General of Prosecution on the ground that the investigation is still in progress and presence of the accused is required for proper investigation.

6. It is seen from the orders of the courts below that the above case was registered on the basis of the complaint given by the father of the accused in Crime No.92/2013 of Tirurangadi Police Station alleging that the injured in that case has admitted in the hospital run by the petitioner and false wound

certificate showing grievous injury was issued. Relying on that document the Investigating Officer filed final report. In fact no serious injuries as noted in the wound certificate has been really sustained and so he wanted necessary action to be taken against the petitioner and that complaint was filed before the City Police Commissioner Kozhikode on 06.12.2014 and it was forwarded to the concerned Police station for necessary action on the basis of which the present case has been registered. It is also seen from the records that the present petitioner has been arrested and the documents relating to the treatment of the injured in the other case has been seized by the police in connection with the investigation. He is in jail from 14.04.2015 onwards. Considering the nature of the allegations made, further custody of the petitioner is not required in this case, though his presence may be required for interrogation for which necessary conditions can be imposed if this Court intends to grant bail to the accused. Further considering the fact that he is aged seventy years and he is a Doctor by profession, one cannot

now come to a conclusion that he will abscond and he will not co-operate with the investigation. So, considering the circumstances, this Court feels that the bail can be granted to the petitioner with some stringent conditions. So, the application is allowed with the following conditions:

i) The petitioner shall be released on bail on executing a bond for ₹25,000/-(Rupees twenty five thousand only) with two solvent sureties for the like sum each to the satisfaction of the Judicial First Class Magistrate Court-V, Kozhikode.

ii) The petitioner shall appear before the Investigating Officer for the purpose of interrogation on the last Saturday of every month between 9 am and 10 am for a period of two months or till the final report is filed, whichever is earlier.

iii) 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.

iv) The petitioner shall surrender his passport, if any, before the Judicial First Class Magistrate Court-V, Kozhikode

within one week from the date of his release and if he is not having any passport, file an affidavit to that effect before that court.

v) The petitioner shall not leave State of Kerala without getting prior permission from the Judicial First Class Magistrate-V, Kozhikode , till the disposal of the case.

With the above condition, this application is allowed.

K.RAMAKRISHNAN, JUDGE

sj