

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. 2491 of 2015 ()

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AGAINST THE ORDER IN CRMP 463/2015 of THE SESSIONS COURT - II,  
KALPETTA, DATED 31.03.2015 IM  
CRIME NO. 217/2015 OF SULTHANBATHERY POLICE STATION, WAYANAD

PETITIONER(S)/ACCUSED:

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RAVI, AGED 39 YEARS,  
S/O.GANGADHARAN, CHOLAYIL HOUSE, KATTAYAD,  
SULTHAN BATHERY P.O., SULTHAN BATHERY TALUK,  
WAYANAD DISTRICT.

BY ADVS.SRI.V.RAJENDRAN (PERUMBAVOOR)  
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

RESPONDENT(S)/STATE & COMPLAINANT:

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1. STATE OF KERALA,  
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM-682 031.
  2. SUB INSPECTOR OF POLICE,  
SULTHAN BATHERY POLICE STATION,  
SULTHAN BATHERY P.O., PIN-673 592.

PUBLIC PROSECUTOR SRI.JOBY JOSEPH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
22-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SS

**K. RAMAKRISHNAN, J.**

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Bail Application No.2491 of 2015  
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Dated this the 22<sup>nd</sup> day of July, 2015

**ORDER**

This is an application filed by the sole accused in Crime No.217/2015 of Sulthan Bathery police station of Wayand District, for anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in nut shell was that, the defacto-complainant and 8 others were granted loan under IAY Scheme by the Block Panchayath and the petitioner as a contractor for constructing the houses obtaining documents from the defacto-complainant and others and received the amounts from the Block Panchayath neither completed the construction work nor had he returned the balance amount and the relevant documents and thereby he had committed the offence punishable under Section 420 of the Indian Penal Code.

3. Heard the counsel for the petitioner and

learned Public Prosecutor and also perused the case diary files.

4. The counsel for the petitioner submitted that, the alleged incident said to have happened in the year 2011 and there is no document or other evidence produced by the defacto-complainant or other witnesses to prove that the construction work has been entrusted to the petitioner and even if the entire allegation is accepted, even then it may only amount to a civil liability and no criminal offence has been made out.

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 crime was registered on the basis of the statement given by the defacto-complainant alleging that four years ago the petitioner had obtained amounts advanced as loan by Block Panchayath for constructing houses in Kattayad Paniya Colony. But he had neither completed the work nor

had he returned the balance amount and the documents and thereby he had committed the offence. On that basis a crime was registered and it is seen from the statements recorded by the police that, the petitioner was entrusted to do the contract work for construction of houses in the Paniya Colony under a scheme launched by the Government. But the work was not completed. It is seen from the report that investigation is in progress and the documents relating to the construction of houses etc. has to be collected from the Block Panchayath. The presence of the accused is required for proper investigation as well.

7. On going through the allegations, this court feels that it is not a fit case to grant anticipatory bail to the petitioner, invoking the power under Section 438 of the Code of Criminal Procedure. But he can very well surrender before the concerned magistrate court and move for regular bail. If he surrenders before the concerned magistrate court and moves for regular bail, then that court is at liberty to consider and dispose of the application after

hearing the Assistant Public Prosecutor of that court as far as possible on the same date of filing of the application itself.

With the above observation the petitioner is dismissed.

Sd/-  
**K. Ramakrishnan, Judge**

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P.A. to Judge

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