

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.2910 of 2015

CRIME NO.2839/2014 OF CHERTHALA POLICE STATION,ALAPPUZHA.

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PETITIONER/ACCUSED:

**JOSE VARGHESE,AGED 45 YEARS,
S/O.VARGHESE,KALLUMPURATHU HOUSE,
THANIKKAPADY,VADAVATHOOR P.O,KOTTAYAM-686010.**

BY ADV.SRI.SURIN GEORGE IPE

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SRI.N.SURESH.

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

pk

B.SUDHEENDRA KUMAR, J.

.....
B.A.No. 2910 of 2015 (C)
.....

Dated this the 26th day of June, 2015

ORDER

The petitioner is the accused in Crime No.2839 of 2014 of Cherthala Police Station registered under Sections 420 and 468 of the Indian Penal Code. During the course of investigation, Section 468 IPC was deleted and Section 406 IPC was added to the section of offences.

2. The prosecution allegation can be briefly stated thus:- During the year 2008, the petitioner was the agent of Reliance Life Insurance Company, Kottayam. While so, the petitioner collected a cheque for Rs.2,00,000/-from the de facto complainant towards one time deposit amount for the insurance policy. Thereafter, the petitioner collected an amount of Rs.2,00,000/- as cash from the de facto complainant stating that the cheque issued by the de facto complainant was bounced. Later on, the de facto complainant realised that the amount handed over to the petitioner by the de facto complainant was not deposited with the company. On the said allegations, a private complaint was filed by the petitioner before the Judicial First Class Magistrate Court-1, Cherthala. The learned magistrate forwarded the said complaint to the police for investigation and report under Section 156(3) Cr.P.C.

Accordingly, the above crime was registered.

3. The petitioner has filed this application under Section 438 of the Code of Criminal Procedure.

4. Heard. Perused the case diary.

5. The learned Public Prosecutor has opposed the application. The incident was on 28-4-2008. However, instead of reporting the matter to the police immediately, the petitioner approached the Judicial First Class Magistrate Court - I, Cherthala with a private complaint on 8-12-2014 alleging the above said offence. The learned Public Prosecutor has submitted that the petitioner is also involved in another offence of similar nature. It is not disputed that the petitioner is on bail in the said crime. There is no allegation that the petitioner issued any forged receipt to the de facto complainant.

6. Considering the facts and circumstances of the case, I am of the view that this is not a case where the custodial interrogation of the petitioner is necessary for the progress of investigation of the case. In the said circumstances, an order under Section 438 Cr.P.C. in favour of the petitioner will be justified in this case.

7. In the result, this application stands allowed and it is

directed that the petitioner shall be released on bail in the event of his arrest in connection with Crime No.2839 of 2014 of Cherthala Police Station on condition of the petitioner executing a bond for ₹25,000/- (Rupees Twenty five thousand only) with two solvent sureties, each for the like sum to the satisfaction of the Sub Inspector of Police, before whom the petitioner shall surrender within fifteen days from today and subject to the following conditions:

- i. The petitioner shall report before the Investigating Officer on all Mondays between 9 a.m. and 11 a.m. for six months and thereafter, as and when required by the Investigating Officer for interrogation.
- ii. The petitioner shall not intimidate or influence the witnesses or in any way tamper with the investigation.
- iii. The petitioner shall not get involved in any offence while on bail.

Sd/-
B.SUDHEENDRA KUMAR.
JUDGE

/true copy/

P.S. to Judge

AMV/27/06/