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. 2928 of 2015 ()

CRIME NO. 191/2015 OF ERNAKULAM SOUTH POLICE STATION , ERNAKULAM

.....

PETITIONER(S)/ACCUSED NO. 4 :

AFSAL SHEREEF, AGED 21 YEARS,
S/O. SHEREEF, MAILADITIL HOUSE, MANNAMKALA,
ADIMALY, IDUKKI DISTRICT.

BY ADV. SRI.S.JIJI

RESPONDENT(S)/STATE :

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

BY SRI.N.SURESH, PUBLIC PROSECUTOR

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

AMV

B.SUDHEENDRA KUMAR, J.

.....

B.A.No.2928 of 2015 (A)

.....

Dated this the 26th day of June, 2015

ORDER

The petitioner is the 4th accused in Crime No.191 of 2015 of Ernakulam Town South Police Station registered under Section 379 read with Section 34 of the Indian Penal Code.

2. The prosecution allegation is that the accused Nos.1 to 3 as per the direction of the 4th accused committed theft of an Innova car bearing registration No.KL-07-BP-7100 belonging to the de facto complainant at about 4 a.m. on 15.02.2015 and thereafter, the said car was entrusted by accused Nos.1 to 3 with accused No.4. The accused No.4 attempted to sell the said vehicle to some person in Tamil Nadu. However, the vehicle was seized by the police before such sale.

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. It appears from the case diary that there are materials to prima facie connect the petitioner with the commission of the offence.Considering the nature of the offence alleged against the petitioner, I am of the view that the learned Public Prosecutor is right in submitting that the custodial interrogation of the petitioner is necessary to ascertain as to whether the petitioner is involved in any other offence of similar nature or not. Considering the nature and gravity of the allegations raised against the petitioner, an order under Section 438 Cr.P.C. in favour of the petitioner will not be justified in this case.

6. In the result, this application stands dismissed. However, the petitioner shall be at liberty to surrender before the Investigating Officer within two weeks from today, if so advised. In the event of such surrender by the petitioner, the Investigating Officer shall produce the petitioner before the jurisdictional Magistrate after interrogation. If the petitioner files any application for bail on his production before the jurisdictional Magistrate, the learned Magistrate shall consider and dispose of the application, in accordance with law, as expeditiously as possible.

I make it clear that this order will not be a bar for the investigating officer to file any application for police custody of the accused, in accordance with law.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

AMV/29/06/

/TRUE COPY/

P.A.TO JUDGE