

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

Bail Application No. 3381 of 2015 ()

CRIME NO. 473/2014 OF KARINKUNNAM POLICE STATION, IDUKKI

PETITIONER(S)/2ND ACCUSED:

K.P.VENUGOPAL AGED 62 YEARS
S/O.PARAMESWARA KURUP, B2, ABHILASH APARTMENT
SOUTH JANATHA ROAD, PALARIVATTOM P.O., ERNAKULAM
KOCHI-682025.

BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA
SRI.M.F.MOHAMMOD SIYAD

RESPONDENT(S) :

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING SUB INSPECTOR OF POLICE
KARIMKUNNAM POLICE STATION-685586.

BY PUBLIC PROSECUTOR SRI.C.RASHEED

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
01-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

vdv

Mary Joseph, J.

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B.A No.3381 of 2015

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Dated this the 1st day of July 2015.

ORDER

This petition is filed under Section 438 of the Code of Criminal Procedure seeking anticipatory bail. Petitioner is the second accused in Crime No.473 of 2014 of Karimkunnam Police Station. The offences allegedly involved in the crime are those punishable under Sections 406 and 506(i) read with Section 17 of the Kerala Money Lenders Act.

2. The allegation of the prosecution was that the petitioner along with the first accused while conducting money lending business unauthorizedly advanced Rs.12 lakh as loan to the de facto complainant's husband, one Mr.Joji after obtaining a cheque for Rs.18,70,000/- as security. It is further alleged that the petitioner herein had withheld Rs.2 lakh from the said loan amount of Rs.12 lakh. It is also alleged that the accused had charged interest at 48% per annum and intimidated the de facto complainant. On such

allegations being lodged in the form of the First Information Statement before Karimkunnamm Police Station by the de facto complainant the crime in question was registered. petitioner apprehends arrest in the matter and therefore this application seeking anticipatory bail is moved.

3. Sri.Philip T.Varghese, learned counsel for the petitioner, and the learned Public Prosecutor were heard in detail. The Case Diary as well as the report appended along with were perused.

4. The learned counsel for the petitioner addressed this Court stating that a prosecution launched under Section 138 of the Negotiable Instruments Act, 1881 at the instance of the first accused in the crime on hand is pending against the de facto complainant. According to him, when summons was obtained by the de facto complainant in the said case that a complaint was lodged by her against the petitioner as well as the first accused and that led to the registration of the crime in question. According to the counsel, there is absolutely no basis in the allegations levelled against the petitioner and those are aimed intentionally to counter blast the proceedings under Section 138 of the Negotiable Instruments Act,1881.

5. It is submitted by the learned Public Prosecutor, who has made available to me the case diary as well as the report of the Investigating Officer, that the allegations are prima facie indicative of the involvement of the second accused in the matter and therefore, the case is not a fit one for this Court to exercise the discretionary power conferred under Section 438 of the Code of Criminal Procedure. There is merit in the argument advanced by the learned Public Prosecutor. Seriousness is involved in the offence.

5. In the circumstances, I am declined to extend the luxury to the petitioner. However, on the submission made by the learned counsel for the petitioner that a direction to the petitioner to surrender before the Magistrate concerned would suffice, the bail application is disposed of with a direction to the petitioner to surrender before the Investigating Officer on 08.07.2015 at 10 a.m for interrogation and if interrogation is not completed on that day, the petitioner is directed to appear before the Investigating Officer on the day and time as directed by the latter. After the interrogation, the petitioner shall be produced before the learned Magistrate having jurisdiction on the same day. The learned Magistrate shall consider

the bail application, if any moved by the petitioner, and the application, if any filed by the Investigating Officer for getting the petitioner in custody, if custodial interrogation is found necessary during the questioning without delay in accordance with law.

Sd/-
Mary Joseph, Judge.

vdv