

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

Bail Appl..No. 3992 of 2015

CRIME NO. 285/2015 OF SANTHANPARA POLICE STATION , IDUKKI

PETITIONER(S)/ACCUSED:

**C.T.BIJU, AGED 43 YEARS,
S/O.THANKAPPAN, RESIDING AT CHERIMALA HOUSE,
NANDIKKARA KARA, NANDIKKARA PO,
PARAPPUKKARA VILLAGE,
MUKUNDAPURAM TALUK,
THRISSUR DISTRICT, PIN-680 301.**

**BY ADVS.SRIP.S.SUJETH
SMT.M.R.REENA**

RESPONDENT(S)/COMPLAINANT:

**1. STATE OF KERALA,
REPRESENTED BY GOVERNMENT PLEADER,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.**

*** ADDL.R2 IMPEADED**

**2. BABU.G., AGED 58,
CHARUVILA PUTHEN VEEDU, THATTATHUMALA P.O.,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM DISTRICT.**

ADDL.R2 IMPEADED AS PER ORDER DATED 27/7/2015 IN CRL.MA.6674/2015

**R1 BY PUBLIC PROSECUTOR SMT.LISHA
R2 BY ADV. SRI.SUNNY ZACHARIAH**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

SUNIL THOMAS, J.

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B.A.No.3992 of 2015

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Dated this the 27th day of July, 2015

ORDER

This application for anticipatory bail is filed by the sole accused in Crime No.285 of 2015 of the Santhanpara Police Station for offences punishable under Sections 420 and 468 of the Indian Penal Code, 1860.

2. The de facto complainant filed a private complaint before the jurisdictional magistrate alleging commission of the above offences. It was alleged that the petitioner herein, who was a Poojari, got acquainted with the de facto complainant and made him believe that his property at Kilimanoor can be sold to one George and in return about 8 Acres of land belonging to the said George and his wife would be sold in turn to the de facto complainant. It is stated that the de facto complainant who was employed abroad, has invested his life long savings in the purchase of the Kilimanoor property. It appears that Kilimanoor property was sold by a single document and by 5 separate sale deeds the property at Santhanpara was assigned jointly in the name of the de facto complainant and the accused herein. It seems that the above documents were executed on 22.4.2014, two days after the execution of the assignment deed of

the Kilimanoor property. The above 5 deeds are produced as Annexure-A3 series. It is alleged by the de facto complainant that thereafter, by Annexure A4 series of documents ½ right over the property was assigned by the accused herein for valuable consideration to third parties. Thereafter, the present complaint was laid by the de facto complainant alleging that the Santhanpara property was purchased in the joint name of the accused and the de facto complainant without his knowledge. According to the de facto complainant he was not aware that the property was purchased in the joint name. He was made to believe by the accused that the property will be mutated and the documents would be handed over.

3. Apprehending that he is likely to be arrested, accused has approached this Court seeking pre-arrest bail. De facto complainant had filed CrI.M.A.No.6674 of 2015 seeking permission to be heard, while considering the pre-arrest bail application. Since the relevant documents in relation to the entire transactions are on record, the permission is granted and the de facto complainant, learned counsel for the petitioner and the learned Public Prosecutor were heard. Examined the records.

4. Learned counsel for the petitioner briefly submitted that he had obtained the Santhanpara property jointly with the de facto

complainant and his right alone has been assigned by him to third party by separate document. It was further contended that even the assignment deed stated that the property that was sold was only covering the $\frac{1}{2}$ right belonging to him.

5. Even though it may appear to be a simple transaction of the $\frac{1}{2}$ right of the accused, there are certain aspects to be looked into. Evidently, the property at Santhanpara was assigned in turn for the sale of the property belonging to the de facto complainant. The assignment deed of Santhanpara property was executed two days after the sale of the Kilimanoor property. Under what circumstance, the petitioner who is only a Poojari and having no other close relation to the de facto complainant became the $\frac{1}{2}$ owner of 8 Acres of land is a moot question that has to be proved by the investigating agency. According to the de facto complainant, the property is worth Crores. In the above circumstances, what was the source of the accused herein, under what circumstance he became $\frac{1}{2}$ holder of the property and under what compelling circumstances, he had sold the property to third parties without the junction of the de facto complainant within one year of such purchase, raises normal and natural doubt. It is a question to be unearthed in a detailed investigation. I feel that the matter requires a deeper investigation.

What is unanswered is how a person who had no right over the Kilimanoor property became ½ owner of the Santhapara property, which was in fact exchanged. Considering these facts, I feel that granting of pre-arrest bail to the petitioner at this stage may hamper the investigation. Hence, I am not inclined to grant bail to the petitioner.

The anticipatory bail application is therefore dismissed.

Sd/-
SUNIL THOMAS
Judge

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True Copy

P.A to Judge