

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

Bail Appl..No. 4335 of 2015

**CRIME NO. 1109/2015 OF KOTHAMANGALAM POLICE STATION,
ERNAKULAM DISTRICT.**
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PETITIONER(S)/ACCUSED NOS.1 & 2:

- 1. SURESH A.S., AGED 45, S/O.SANKARAN,
ALAPPAT HOUSE, THANGALAM KARA,
THRIKKARIYOOR VILLAGE, ERNAKULAM DISTRICT.**
- 2. JALAJA SURESH, AGED 42, W/O.SURESH,
ALAPPAT HOUSE, THANGALAM KARA,
THRIKKARIYOOR VILLAGE, ERNAKULAM DISTRICT.**

BY ADV. SRI.C.P.UDAYABHANU

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE S.I. OF POLICE,
(CRIME NO.1109/15)
KOTHAMANGALAM POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.REMA.R

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 29-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

K. ABRAHAM MATHEW, J.

B.A. No.4335 of 2015

Dated this the 29th day of July 2015

ORDER

Petition filed under Section 438 Cr.P.C.

2. Petitioners are accused in Crime No.1109 of 2015 of Kothamangalam Police station registered for the offences under Sec.420 read with Sec.34 of the Indian Penal Code. They were owners of a property. They entered into an agreement with the 1st informant for sale of the property for Rs.24 lakhs and received Rs.15 lakhs in advance towards the sale consideration. It is alleged that they suppressed the existence of a liability in respect of the property and thus cheated the first informant.

3. Heard both sides.

4. I have perused the copy of the agreement for sale. The petitioners undertook to clear the liability if any before execution of the sale deed. There is no evidence to show that the first informant even made a demand for specific performance of the agreement. Under the agreement, the petitioners were bound to clear the

property of all liabilities only just before the execution of the sale deed. It is doubtful whether the elements of Sec.420 of the Indian Penal Code are attracted. In these circumstances, they are entitled to anticipatory bail.

In the result, the bail application is allowed.

1. The petitioners shall be released on bail after interrogation on their executing a bond for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum if they are arrested by the Police in connection with this case.

2) They shall appear before the Investigating Officer for interrogation if they are so required by him in writing.

3) They shall surrender their passports before the lower court concerned or if they do not have the one, file affidavits to that effect.

4) They shall not leave India without the previous permission of the court of enquiry or the trial court concerned as the case may be.

5) They shall not destroy or tamper with evidence nor shall they get themselves involved in any other criminal case.

6) They shall not intimidate or attempt to influence the witnesses.

7) They shall co-operate with investigation of the case.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.

If the petitioners surrender before the Magistrate, this order is not applicable and the learned Magistrate may pass appropriate orders.

Sd/-
K. ABRAHAM MATHEW
JUDGE
/ True Copy /

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P.A. To Judge