

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Bail Appl..No. 5240 of 2015 ()

CRIME NO. 728/2014 OF MALAYINKEEZHU POLICE STATION, THIRUVANANTHAPURAM

PETITIONER/1ST ACCUSED :

**SAJI S.,
S/O.SUKUMARANN K., AGED 33 YEARS
RESIDING AT VAZHUTHOORKONAM THEKKUMKARA, VILAVOORKAL
MALAYINKAL P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SRI.V.N.GOPALAKRISHNAN NAIR
SRI.A.CHANDRA BABU**

RESPONDENT(S) :

**1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM - 682 031.**

**2. THE CIRCLE INSPECTOR OF POLICE
NEDUMANGADU, THIRUVANANTHAPURAM - 695571**

R1 & R2 BY PUBLIC PROSECUTOR SMT. M.T. SHEEBA

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18-12-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

BABU MATHEW P. JOSEPH, J.

B.A. No.5240 of 2015

Dated this the 18th day of December, 2015

ORDER

This petition is filed under Section 438 of Cr.P.C. for anticipatory bail.

2. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the respondents. C.D. produced.

3. The petitioner is the first accused in Crime No. 728 of 2014 of Malayinkeezhu Police Station. The offences alleged are under Sections 294(b), 341, 323 and 324 read with Section 34 of the Indian Penal Code and under Section 3(1)(X) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Learned counsel for the petitioner submits that the petitioner is innocent of the allegations raised against him. He has no criminal antecedents. In fact, the de facto complainant submitted Annexure-III affidavit before the Magistrate's court stating that she has committed a mistake in implicating the petitioner in this case and the petitioner was not one among the accused who

committed the offences. The investigation of the case is almost over. The custodial interrogation of the petitioner is not required. All other accused were granted anticipatory bail by this Court. He further submits that the petitioner apprehends arrest by the Police at any time.

4. Learned Public Prosecutor admits the fact that the investigation of the case has progressed much. She further submits that no criminal antecedents have been reported against the petitioner. All the offences, except the offence under Section 3(1)(X) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, alleged against the petitioner are bailable. In the circumstance, it is open to the petitioner to surrender before the jurisdictional Magistrate and seek regular bail as held by this Court in **Shanu v. State of Kerala (2003 KLT 425)** and subsequent decisions.

Therefore, this bail application is disposed of as under:

The petitioner shall surrender before the jurisdictional Magistrate within two weeks from today and seek regular bail with intimation to the Assistant Public Prosecutor concerned atleast three working days in advance. In case such an application is preferred by the petitioner, the learned Magistrate shall pass appropriate orders on the application in the light of the decision in **Shanu v. State of Kerala** (supra) and subsequent decisions of this Court as early as possible.

Sd/-BABU MATHEW P. JOSEPH
Judge

True Copy

P.A to Judge

lsn