

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

Bail Appl..No. 5419 of 2015

CRIME NO. 823/2015 OF MANGALAPURAM POLICE STATION.
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PETITIONER(S)/ACCUSED (A1&A2):

1. SHAFFI, AGED 50 YEARS,
S/O.ABDUL RAHMAN, SHANAVAS BUNGLOW,
MANGALAPURAM DESOM,
IDAVILAKATHU MURIYIL, VEYILOOR VILLAGE,
THIRUVANANTHAPURAM TALUK.
2. JIROSH MUHAMMED, AGED 40 YEARS,
S/O.MOHAMMED HANEEFA, PVP HOUSE,
MELTHONNAKKAL VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.R.T.PRADEEP

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. BINU, S/O.RAVEENDRAN, SAMEER MANZIL,
KARAMOODU, KARAMOODU DESOM,
THONNAKKAL VILLAGE - 691579.

R1 BY PUBLIC PROSECUTOR SMT.BINDU GOPINATH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 14-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

RAJA VIJAYARAGHAVAN V, J.

B.A.No.5419 of 2015

Dated this the 14th day of October, 2015

O R D E R

This is an application filed under S.438 of the Code of Criminal Procedure.

2. The petitioners are the accused Nos.1 & 2 in Crime No.823/2015 of Mangalapuram Police Station. The allegation against the petitioners is that the petitioners along with accused Nos.3 to 5 with intent to cheat the informant, entered into an agreement for sale with him in respect of a property having an extent of 8.5 cents comprised in re-survey No.108/19 and accepted an advance amount of Rs.6 lakhs. According to the first informant, the accused had undertaken that they would execute the sale deed in favour of the first informant within a period of 40 days. In spite of the said undertaking, they had failed to

execute the sale deed and thus cheated the informant.

3. I have heard the learned counsel appearing for the petitioners as well as the learned Public Prosecutor.

4. The learned counsel for the petitioners has submitted that the allegations even if the same was accepted in its entirety would only reveal a civil transaction and the failure on the part of the petitioners to execute the sale deed will not amount to an offence under S.420 of the Indian Penal Code. It is further submitted that the petitioners had already given an undertaking to the first informant that the amount obtained by way of advance would be repaid on or before 30.11.2015.

Having regard to the facts and circumstances, I am of the considered view that this is not a case in which custodial interrogation of the petitioners is warranted. In view of the

above, the application is allowed but subject to the following conditions:

i). The petitioners shall be released on bail after interrogation on their executing a bond for 25,000/- each with two solvent sureties each for the like sum if they are arrested by the Police in connection with this case.

ii). The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the court or to any police officer.

iii). The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

iv). The petitioners shall not influence or intimidate the prosecution witnesses or

attempt to tamper with the evidence for the prosecution.

v). The petitioners shall not commit any similar offence while on bail.

vi). The petitioners shall not leave India without the previous permission of the jurisdictional magistrate.

vii). In case of violation of any of the above conditions, the jurisdictional magistrate shall be empowered to cancel the bail in accordance with law.

This application is allowed as above.

Sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE.**

Bb

[True copy]

P.A to Judge