

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

Bail Appl..No. 5430 of 2015

CRIME NO. 1022/2015 OF PAYYANNUR POLICE STATION , KANNUR DISTRICT

PETITIONER(S)/ACCUSED NO.3 :

**MUHAMMED ASLAM, AGED 26 YEARS,
S/O.ABDUL SALAM, PUTHIYAVALLAPPIL HOUSE, PALAKKODE,
RAMANTHALI AMSOM, KANNUR DISTRICT.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S) :

**1. INSPECTOR OF POLICE,
PAYYANNUR POLICE STATION- 670 633.**

**2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SRI.ABHIJEET LESLIE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

RAJA VIJAYARAGHAVAN V, J.

B.A.No.5430 of 2015

Dated this the 30th day of October, 2015

O R D E R

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

2. The petitioner who is the third accused in Crime No.1022/2015 of Payyannur Police Station apprehends arrest in the said crime based on the allegation that he has committed an offence punishable under S.305 r/w S.34 of the IPC.

3. Isahakk, the son of the informant was working in the grocery shop of the first accused. Isahakk is alleged to have committed theft of money from the shop and the same was handed to one Haseena, with whom he was having an affair. The defalcation was finally detected and the first

accused along with Isahakk and the petitioner herein is alleged to have gone to the house of Haseena to retrieve the stolen money in the auto rickshaw of the second accused. The role played by the petitioner according to the prosecution case is that the petitioner had pointed out the house of the aforesaid Haseena and for that purpose had accompanied accused Nos.1 & 2. Haseena is alleged to have returned the money and thereafter, the first and second accused returned back with Isahakk and the first accused locked Isahakk in the shop room. Isahakk committed suicide later and it was on its basis that the aforesaid crime was registered.

4. I have heard the learned counsel appearing for the petitioner as well as the learned Public Prosecutor.

5. It is submitted by the learned counsel appearing for the petitioner that the role played by the petitioner even if the allegations of the prosecution is accepted in its

entirety is only that the petitioner had assisted the first and second accused to locate the house of Haseena and nothing else.

6. After having heard the rival submissions, the nature and gravity of the allegations, the antecedents of the petitioner and the other circumstances, I am of the considered view that custodial interrogation of the petitioner is unwarranted and anticipatory bail can be granted to the petitioner by imposing appropriate conditions.

In the result, this application is allowed, but subject to the following conditions:

- i). The petitioner shall be released on bail after interrogation on his executing a bond for 25,000/- with two solvent sureties for the like sum if he is arrested by the Police in connection with this case.
- ii). The petitioner 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 petitioner shall make himself available for interrogation as and when required by the investigating officer.

iv). The petitioner shall not influence or intimidate the prosecution witnesses or attempt to tamper with the evidence for the prosecution.

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

vi). The petitioner 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