

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. 5517 of 2015 ()

CRIME NO. 771/2015 OF KUTTIPURAM POLICE STATION,MALAPPURAM DISTRICT

PETITIONER/ACCUSED NO.3:

**SASIKUMAR,
S/O.K.P.SUNDARAN, AGED 40 YEARS, 6/38, ANNANAGAR,
AMMANCOLONY N.S.PURAM, EDAYARPALAYAM,
KUNIYAMUTHUR, COIMBATORE.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT/STATE:

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031,
REPRESENTING THE SUB INSPECTOR OF POLICE,
KUTTIPURAM POLICE STATION.**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

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

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RAJA VIJAYARAGHAVAN V, J.

B.A.No.5517 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 herein is the second accused in Crime No.771/2015 of Kuttipuram Police Station. The said crime has been registered for offence punishable under S.420 of the IPC.

3. The gist of the allegation is that, the first accused in the aforesaid crime had pledged spurious gold ornaments in various banks within Malappuram District and secured large sums by way of loans. The petitioner herein is alleged to be the manufacturer of the aforesaid spurious gold. It is the case of the prosecution that the petitioner also had a

distinct role to play in the commission of the offence along with the first accused.

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

5. The learned counsel appearing for the petitioner has submitted that the petitioner is engaged in the manufacture of a jewellery and is based at Coimbatore. He however admitted that as requested by the first accused he had manufactured gold ornaments with low carat value. The first accused has pledged these gold ornaments before various banks and has obtained large sums by way loans and the petitioner has nothing to do with the same. According to the learned counsel, it is obvious that the offence was committed by the first accused with the active connivance of the bank authorities and the petitioner herein who is just a manufacturer of the gold ornaments cannot be

held liable for the acts of the first accused.

6. It is further submitted by the learned counsel appearing for the petitioner that in addition to the aforesaid crime, Crime No.649/2015 of Kuttipuram Police Station and Crime No.674/2015 of Kuttipuram Police Station has been registered against the petitioner and others. In so far as Crime No. 674/2015 is concerned, the petitioner was arrested on 21.07.2015 and he was released on bail on 22.07.2015. In Crime No.649/2015 of Kuttipuram Police Station, the petitioner is arrayed as the third accused. In the aforesaid crime, the petitioner was arrested on 22.07.2015 and he was released on 02.09.2015. It is also submitted that the investigating officer in all the 3 crimes is the Station House Officer of the Kuttipuram police station. It is pointed out by the learned counsel that the petitioner has undergone incarceration for more than a month in connection with the above crimes. The learned counsel

referred to Annexure A1 order of this court passed in B.A.No.5090/2015 dated 02.09.2015 in Crime No.649/2015 of Kuttipuram police station. As per the said order, the petitioner has been enlarged on bail subject to conditions and as per condition No.III the petitioner has been directed to report before the investigating officer on all Mondays and Thursdays between 10.00 a.m and 11.00 a.m until final report is filed. It is the further submission that the petitioner has been complying with the aforesaid conditions without fail. According to the learned counsel, the petitioner has already undergone custodial interrogation in connected crimes.

7. Having heard the learned counsel appearing for the petitioner and after having perused the materials on record, I am of the considered view that further custodial interrogation of the petitioner is unwarranted. It is clear from the records that the petitioner has already undergone

incarceration for more than a month in Crime No.649/2015 which is being investigated by the same investigating officer. The allegation in the instant crime is just a duplication of the allegation of the Crime No.674/2015 which also relates to the offense of cheating committed at the Federal Bank, Kuttipuram branch. It is also borne out, that on the date of registration of the instant crime, the petitioner was undergoing incarceration in Crime No.649/2015.

Therefore, considering the entire facts and circumstances, I am of the view that all the petition can be allowed with stringent conditions to safeguard the investigation :

- i. The petitioner shall, within 10 days, surrender before the investigating officer and submit himself for interrogation. Thereafter, he shall execute a bond for Rs.1,00,000/- (Rupees one lakh only)

with two solvent sureties for the like sum to the satisfaction of the investigating officer. In that event, he shall be released on bail in the aforesaid crime.

ii. The petitioner shall appear before the investigating officer at 10.00 a.m. on the next two consecutive days and submit himself for interrogation.

iii. If the investigating officer requires the attendance of the petitioner on any further occasion than the days mentioned above, he may direct the petitioner to appear in writing.

iv. The petitioner shall surrender his passport before the Magistrate concerned within a week from the date of appearance before the investigating officer.

v. The petitioner shall not influence or intimidate the witnesses. He shall not meddle in any manner with the investigation.

vi. The petitioner shall not leave India without the permission of the learned

Magistrate concerned.

vii. If any of the conditions above is violated, the Magistrate having jurisdiction is empowered to cancel the bail in accordance with law without referring the matter to this Court.

The application is allowed as above.

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

Bb

[True copy]

P.A to Judge