

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V**

**FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937**

**Bail Appl..No. 5613 of 2015 ()**

**CRIME NO. 442/2015 OF NEYYAR DAM POLICE STATION, THIRUVANANTHAPURAM**

**PETITIONERACCUSED NO.4 :**

**JASMINE KUMAR, AGED 33 YEARS  
S/O.THANKACHAN, TDJ BHAVAN, ONAMCODU  
THANNIMMOODU P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SRI.BLAZE K. JOSE  
SRI.M.RAJESH  
SMT.P.SHEENA RAJAN  
SMT.RESHMA G.MENON**

**RESPONDENTS/COMPLAINANTS :**

- 1. STATE OF KERALA  
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA  
ERNAKULAM, PIN-682 031.**
- 2. SUB INSPECTOR OF POLICE  
NEYYAR DAM POLICE STATION, PIN-695 121.**

**R1 & R2 BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16-10-2015,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**Mn**

**RAJA VIJAYARAGHAVAN V, J.**

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**B.A.No.5613 of 2015**  
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**Dated this the 16<sup>th</sup> day of October, 2015**

**O R D E R**

This is an application seeking pre-arrest bail filed under S.438 of the Code of Criminal Procedure.

2. The petitioner is arrayed as the 4<sup>th</sup> accused in Crime No.442/2015 of Neyyar Dam police station. The said crime has been registered under S.457 & 380 of the IPC on the strength of a complaint filed by one Suseelan alleging that on 15.07.2015 at about 2.a.m., certain unknown persons have trespassed into his residential house and had stolen gold ornaments and electronic items. It appears that later on the basis of the confession statement of Syam Kumar, the principal accused in the said crime, the petitioner was arrayed as the 4<sup>th</sup> accused.

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

4. The learned counsel appearing for the petitioner has submitted that instant is a case where the Circle Inspector of Police, Neyyattinkara has misused his official position and has registered the instant crime implicating the petitioner as an accused in retaliation to the complaint filed by the petitioner against the said officer and other police personnel before the Kerala State Human Rights Commission. The learned counsel had placed on record Annexure I which is the affidavit filed by the petitioner herein before the Kerala State Human Rights Commission on 27.06.2015. In the said affidavit, the petitioner has detailed the instances of police brutality as against him perpetrated by the Circle Inspector of Police on 02.01.2015 and on subsequent days. Taking note of the complaint raised by the petitioner, proceedings were initiated against the Circle Inspector of Police by the Kerala State Human Rights Commission. Annexure 2 order dated 15.07.2015 has been passed by the Kerala State Human Rights Commission in H.R.M.P No.554/2015 initiated at the instance of the

petitioner in which specific directions were issued not to register false crimes against the petitioner. It is on the next day that Annexure 4 FIR was registered in respect of the crime which allegedly was committed on 15.07.2015.

5. After having gone through the materials produced by the learned counsel for the petitioner, I have no doubt in my mind that the implication of the petitioner in the instant crime is nothing, but high handedness on the part of the Circle Inspector of Police, Neyyattinkara. The learned counsel has also invited the attention of this Court to the final order dated 18.08.2015 in H.R.M.P.No. 554/2015 of the Kerala State Human Rights Commission, as per which, the Circle Inspector of Police has been directed to pay compensation of Rs.10,000/- to the petitioner.

6. It is pursuant to the aforesaid final order of the Kerala State Human Rights Commission that , based on an alleged confessional statement given by the first accused in

the aforesaid crime, that the petitioner has been arrayed as the 4<sup>th</sup> accused.

7. In the facts and circumstances, I am satisfied that the registration of the crime as against the petitioner is clearly to vex and harass him. I am satisfied that issuance of an order of pre-arrest bail to the petitioner will subserve the ends of justice.

It is therefore ordered that in the event of the arrest of the petitioner in the aforesaid crime by the Police, the petitioner shall be released on bail on his executing a bond for 5,000/- (Rupees Five Thousand only) with two solvent sureties for the like sum to the satisfaction of the officer concerned.

The application is allowed as above.

Sd/-

**RAJA VIJAYARAGHAVAN V,  
JUDGE.**

Bb

*[True copy]*

*P.A to Judge*