

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. 5733 of 2015

CRIME NO. 1083/2015 OF ALAPPUZHA NORTH POLICE STATION , ALAPPUZHA

PETITIONER(S)/ACCUSED :

**EDWARD, AGED 58 YEARS,
W/O.ANTONY, KODIVEETIL, KANJIRAM CHIRA WARD,
ALAPPUZHA.**

BY ADV. SRI.B.SIBI

RESPONDENT(S)/COMPLAINANT/STATE :

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

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:**

Msd.

RAJA VIJAYARAGHAVAN V, J.

B.A.No.5733 of 2015

Dated this the 16th 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 the sole accused in Crime No.1083/2015 of Alappuzha North Police Station. The said crime has been registered for offence punishable under S.353 & 289 of the IPC.

3. The prosecution allegation is that on 27.07.2015, when the Amin attached to the Sub Court, Alappuzha came to the residential home of the petitioner who is the Judgment Debtor in Ep.No.245/2009 in Os No.107/2006, the petitioner had let loose the guard dogs of his house and deterred the Amin from performing his official duty.

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 submitted that the petitioner was not even present at his residence and basing on Annexure A3 complaint preferred by the petitioner's wife before the Superintendent of Police, Alappuzha contented that the Amin as well as the decree holder behaved in a despicable manner towards the wife of the petitioner when they had come to the residential home to realise the decree amount. It is also pointed out that the Amin had absolutely no case in Annexure A1 that as a result of letting loose the dogs he was deterred from performing his official duty. In fact the Amin had stood the ground and also had conducted necessary enquiries pursuant thereto. According to the learned counsel appearing for the petitioner, no such incident had taken place.

6. The learned Public Prosecutor vehemently opposed the application for bail.

7. I have gone through the materials produced and in view of the contentions raised by the learned counsel appearing for the petitioner and also Annexure A3 complaint preferred by the wife of the petitioner, I am satisfied that this is not a case where custodial interrogation of the petitioner is warranted.

8. 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