

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Bail Appl..No. 5795 of 2015

**CRIME NO. 627/2012 OF ERNAKULAM TOWN SOUTH POLICE STATION,
ERNAKULAM**

PETITIONER(S)/ACCUSED:

**MOHANAN M., AGED 52 YEARS,
S/O.K.RAGHAVAN NAIR, 7/365, MURUTHATTIL HOUSE,
KANJIRAMATTOM P.O., ERNAKULAM-682 315.**

BY ADV. SRI.T.K.RAJESHKUMAR

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE,
ERNAKULAM TOWN SOUTH POLICE STATION,
ERNAKUAM.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

RAJA VIJAYARAGHAVAN.V. J

B.A.5795/2015

Dated 15th October, 2015

ORDER

- 1.This is an application filed u/s 438 of the Code of Criminal Procedure.
- 2.The petitioner is the 6th accused in crime No.627 of 2012 of Ernakulam Town South police station. The said crime has been registered for offence punishable u/s 405, 420, 464, 465, 420, 120(b) r/w S.34 IPC.
- 3.The allegation is that in pursuance of a tripartite agreement between the Bank, the builder and the petitioner, the petitioner had availed a loan from de facto complainant for the purchase of residential apartments in the land owned by the GCDA. As per the agreement, the loan amount was directly disbursed in favor of the builder and the original sale deed was to be deposited with the bank. The builder in violation of

the agreement and with the connivance of the petitioner transferred the apartments in favor of strangers without the junction of the Bank.

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

5.The learned counsel for the petitioner has submitted that the allegations in the complaint reveals only a purely civil dispute and no offence u/s 420 was attracted. It was pointed out that a Civil Suit was instituted before the Sub Court, Ernakulam, as O.S.532 of 2012 by the HDFC Bank for recovery of the loan amount which has already been dismissed as per Annexure-II judgment. According to the learned counsel, it was after dismissal of the aforesaid Suit that the Bank authorities had saddled up the criminal proceedings as against the petitioner herein to get him arrested and to force him to pay the amount allegedly due to the Bank.

6. After having gone through the materials, I am of the considered view that the case rests on documentary evidence and the role of the petitioner in the whole transaction is limited. In view of the fact that the investigation has proceeded much, as the crime is of the year 2012, it is felt that there is no need for custodial interrogation of the petitioner.

7. In view of the above, the Bail application is allowed 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 each for the like sum in the event of his arrest 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). 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

MrCs

//True copy//