

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Bail Appl..No. 6493 of 2015 ()

CRIME NO. 100/2013 OF VADAKKEKAD POLICE STATION, THRISSUR DISTRICT.

.....

PETITIONER/ACCUSED NO.2:

KALLAYIL MUSTHAF @ MUTHU,
S/O.KUNJUMON, AGED 38 YEARS,
THERANATH HOUSE, AKALAD OTTAYINI,
KARUTHUMKUZHI, PUNNAYUR VILLAGE,
CHAVAKKAD TALUK, THRISSUR.

BY ADVS.SRI.R.ANIL,
SRI.M.SUNILKUMAR,
SRI.SUJESH MENON V.B.,
SRI.T.ANIL KUMAR,
SRI.THOMAS ABRAHAM (NILACKAPPILLIL),
SRI.M.VIVEK,
SRI.A.RAJESH.

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY SR. PUBLIC PROSECUTOR SRI.C. RASHEED.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 29-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

rs.

A.HARIPRASAD, J.

B.A No.6493 of 2015

Dated this the 29th day of October, 2015.

ORDER

Application for bail under Section 439 Cr.P.C.

2. Petitioner is the second accused in Crime No.100 of 2013 of Vadakekad Police Station registered for offences punishable under Sections 366, 376, 302, 379 and 201 r/w 34 I.P.C.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. Prosecution case, in short, is that on 29-01-2013 at about 9.30 p.m., the first accused, who was in love with the deceased girl committed rape on her and she was murdered. After the horrendous incident, gold ornaments were stolen by the first accused. The prosecution allegation is that the petitioner (second accused) knew about the criminal transaction and knowingly he aided to cause disappearance of evidence.

5. Learned counsel for the petitioner contended that going by the entire prosecution case, the petitioner has not taken any part in the criminal transaction alleged. If at all he is involved in causing disappearance, the offence under Section 201 I.P.C can only be treated as bailable one. He is in custody from 18-09-2015. Considering the stage of investigation, nature of allegations against the petitioner and also relying on a decision of this Court in ***Saidevan Thampi and another v. State of Kerala and Others (2013(2) K.L.D 815)***, I find that bail can be granted to the petitioner with following strict conditions :

1. The petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate having jurisdiction.
2. The sureties shall produce documents to establish their identity and solvency. The learned Magistrate need not insist on the solvency certificate, but other documents can

also be perused to find out whether the sureties are solvent or not.

3. The petitioner shall appear before the Investigating Officer on all Mondays and Thursdays between 10.00 and 11.00 a.m until final report is filed.
4. The petitioner shall not indulge in any offence while on bail.
5. The petitioner shall not influence or intimidate the witnesses or meddle with the investigation in any manner.

If any of the above conditions is breached by the petitioner, the learned Magistrate is free to cancel bail without referring the matter to this Court.

amk

Sd/-
A.HARIPRASAD,
JUDGE.

//True copy//

P.A to Judge