

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

Bail Appl..No. 6507 of 2015

**CRIME NO. 996/2015 OF ERNAKULAM SOUTH POLICE STATION ,
ERNAKULAM DISTRICT**

PETITIONER(S)/2ND ACCUSED :

**MARY MAYFIL XAVIER, AGED 39 YEARS,
W/O.XAVIER V.M., VACHAKKAL HOUSE, HEERA WATERS, NB 5D,
BUND ROAD, KADAVANTHRA, ERNAKULAM, KOCHI - 682 020.**

BY ADV. SRI.A.S.SASIDHARAN

RESPONDENT(S)/COMPLAINANT AND STATE :

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

*** ADDITIONAL R3 IMPEADED**

- 3. RUBY HANSE, AGED 38 YEARS,
W/O.ANTOJI HANSE, KURISINKAL HOUSE,
CHELLANAM, CHELLANAM VILLAGE, KOCHI TALUK,
PIN- 682 008.**

*** ADDITIONAL R3 IS IMPEADED AS PER ORDER DATED 20.11.2015 IN
CRL.M.A.NO.10038 OF 2015.**

**R1 & R2 BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA
ADDL.R3 BY ADV. SRI.BIMAL PRASAD**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

A.HARIPRASAD, J.

B.A.No.6507 of 2015

Dated this the 20th day of November, 2015

O R D E R

Application filed under Section 438 of the Code of Criminal Procedure.

2. Ernakulam Town Police Station Crime No.996/2015 is registered under Section 420 of Indian Penal Code. The case was registered on the basis of a private complaint forwarded for investigation under Section 156(3) of the Code of Criminal Procedure. The petitioner is the second accused in the crime. The prosecution case as revealed from Anx.A2 complaint is that, the first accused and the second accused are partners in a business in real estate and they are builders as well. The complainant's husband is the cousin of the second accused. Both families were closely know to each other. By misusing the relationship, the accused persons made the complainant believe that 12 cents of land belonging to the first accused would be transferred to the de facto complainant for building a house and on that

pretext a total sum of Rs. 19,00,000/- was received from the de facto complainant. Thereafter the de facto complainant realised that the accused persons were cheating him. That apart the accused persons purchased a costly car in the name of the de facto complainant's husband. They failed to pay the EMI.

3. Heard the learned counsel for the petitioner, learned counsel for the de facto complainant and the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted that the entire allegations in the complaint is against the first accused. According to the learned counsel for the petitioner, the petitioner and her husband (first accused) are not in good terms and they are separately residing. This submission is strongly opposed by the learned counsel for the de facto complainant stating that, the stand taken by the petitioner before the learned Sessions Judge in an anticipatory bail application was totally different.

5. Considering the nature of allegations, I do not find

that the petitioner is entitled to a blanket order of pre-arrest bail. Hence the following directions:

- (a) Petitioner shall surrender before the Investigating Officer within a period of 'two weeks' from today and submit herself for interrogation. Thereafter, she shall execute a bond for Rs.1,00,000/- (Rupees One Lakh Only) each with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.
- (b) The petitioner shall appear before the Investigating Officer as and when required for the purpose of interrogation.
- (c) The petitioner shall co-operate with the investigation of the case.
- (d) The petitioner shall not intimidate or attempt to influence the witnesses.
- (e) The petitioner shall not in any manner interfere or meddle with the investigation.
- (f) Petitioner shall not, during the period of

this bail get involved in any offence.

In case any of the above conditions is violated, bail granted hereby is liable to be cancelled for which the investigating officer may move application before the jurisdictional magistrate.

Sd/-
A.HARIPRASAD, JUDGE.

AVS

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P.A. TO JUDGE

B.A.No.6507 of 2015

-.:6:-

2. Petitioners are the accused in Crime No.338 of 2015 of Balusserry Police Station registered for the offences punishable under Sections 420, 447, 468 and 471 r/w Section 34 of the Indian Penal Code.

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

4. Learned counsel for the petitioners submitted that this is a false case filed against the petitioners. Actually, there is a civil dispute between the parties. First accused in the crime filed the suit in O.S.No.139 of 2015 before the Munsiff's Court, Koyilandy and the matter is pending before that court. On account of the civil dispute a false complaint has been registered.

5. Considering the nature of allegations, I am inclined to grant anticipatory bail to the petitioners with the following conditions:

- (a) Petitioners shall surrender before the Investigating Officer within a period of 'two weeks' from today and submit

themselves for interrogation. Thereafter, they shall be released on bail on their executing a bond for `25,000/- (Rupees Twenty Five Thousand Only) each with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.

- (b) The petitioners shall appear before the Investigating Officer as and when required for the purpose of interrogation.
- (c) The petitioners shall co-operate with the investigation of the case.
- (d) The petitioners shall not intimidate or attempt to influence the witnesses.
- (e) The petitioners shall not in any manner interfere or meddle with the investigation.
- (f) Petitioners shall not, during the period of this bail get involved in any offence.

In case any of the above conditions is violated, bail granted hereby is liable to be cancelled for which the

investigating officer may move application before the jurisdictional magistrate.

A.HARIPRASAD, JUDGE.

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