

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. 6633 of 2015 ()

CRIME NO. 1050/2015 OF NADAKKAVU POLICE STATION, KOZHIKODE DISTRICT

PETITIONER :

**AHAMMED SHIHAB
S/O.ABU THENDIYAN, AGED 28 YEARS
CHAPPANANGADI, VATTAPARAMBU
PONMALA, PIN - 676 503.**

BY ADV. SRI.ALIAS M. CHERIAN

RESPONDENT(S) :

**1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM
PIN - 682 031.**

**2. SUB INSPECTOR OF POLICE
NADAKKAVU POLICE STATION
NADAKKAVU, KOZHIKODE DISTRICT
PIN - 676 001.**

R1 & R2 BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.

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

Mn

A.HARIPRASAD, J.

B.A. No.6633 of 2015

Dated this the 20th day of November, 2015

ORDER

Petitioner is the second accused in Crime No.1050 of 2014 of Nadakkavu Police Station registered alleging an offence punishable under Section 379 of the Indian Penal Code. He seeks pre-arrest bail under Section 438 of the Code of Criminal Procedure.

2. Prosecution case, in short, is that on 19.09.2015 at 00.30 hours in the night, the lorry seized by the Sales Tax Intelligence Officer was stolen away and the unauthorised electric goods kept in the lorry were removed.

3. Heard both sides.

4. Learned counsel for the petitioner submitted that the petitioner is not directly involved in the incident. First accused was arrested and merely on his confession, the second accused is implicated in the case.

5. Learned Prosecutor opposed the bail application. The report of the investigating officer is produced for scrutiny. It is seen from the report that the prosecution has a case that the second accused removed the articles from the lorry and the articles could not be recovered so far. It is submitted by the learned Prosecutor that custody of the second accused

is necessary for recovery of the articles.

Considering the nature of allegations, following directions are issued:

In the event the petitioner surrenders before the investigating officer within a period of two weeks from today and submits himself for interrogation, he shall be produced before the learned Magistrate having jurisdiction on the date of surrender itself. In that event, he is free to move for bail and the learned Magistrate shall consider the application on merits and pass appropriate orders as expeditiously as possible, if possible on the date of surrender itself. If the petitioner does not surrender before the investigating officer within the said time, the investigating officer is free to arrest him, as if no order is passed in this case.

Application is disposed of.

A. HARIPRASAD, JUDGE.

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