

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. 6851 of 2015 ()

CRIME NO. 616/CR/1991 OF CBCID, PALAKKAD

PETITIONER :

**SALEEM
AGED 53 YEARS, S/O.MUHAMMED,
THATTAR VALAPPIL HOUSE, NOORNI POST
PALAKKAD.**

BY ADV. SRI.L.RAJESH NARAYAN IYER

RESPONDENT :

**STATE OF KERALA
REPRESENTED BY CIRCLE INSPECTOR OF POLICE, CBCID
PALAKKAD, THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

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.6851 of 2015

Dated this the 20th day of November, 2015

ORDER

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

2. The petitioner is the accused in Crime No.616/CR/1991 of CBCID Palakkad and which is pending in L.P.No. 52/1998 on the file of the Judicial First Class Magistrate Court-III, Palakkad. He is involved in offences under Sections 143, 147, 148, 427, 451, 435, 436, 153 A, 120 B read with Section 149 of the Indian Penal Code.

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

4. Learned counsel for the petitioner submitted that the petitioner is falsely implicated in the case and he is implicated on the basis of a mistaken identity. He was tried by the same court in two cases and acquitted. However, the fact remains that the petitioner is designated as as absconding accused in the case and the case has been consigned to long pending register.

The jurisdiction under Section 438 Code of Criminal Procedure can never be used to grant orders for an accused who is directed to appear before a court by issuance of a warrant.

However, it is made clear that if the petitioner surrenders before the court and moves for bail the learned Magistrate shall consider the matter on merit as expeditiously as possible.

Sd/-
A.HARIPRASAD, JUDGE.

AVS

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PA. TO JUDGE

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.

AS