

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

Bail Appl..No. 6880 of 2015

**CRIME NO. 33/2015 OF NARUVAMOODU POLICE STATION,
THIRUVANANTHAPURAM**

PETITIONER/1ST ACCUSED:

**SATHEESHKUMAR, AGED 40 YEARS,
S/O.APPUKUTTAN NAIR, KARAMOODUVEEDU, PALOTTUVILA,
KURIVYODU, MANCHADI. P O, THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S)/STATE AND COMPLAINANT:

**1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM-682031.**

**2. SUB INSPECTOR OF POLICE,
NARUVAMOODU POLICE STATION,
THIRUVANANTHAPURAM DISTRICT-695004.**

BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02-12-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K.P. JYOTHINDRANATH, J.

B.A. No.6880 of 2015

Dated this the 2nd day of December, 2015

ORDER

This is an application filed under Section 438 of the Code of Criminal Procedure.

2. When the application came up for hearing, the learned counsel for the petitioner submitted before me that he is the first accused in crime No.33/2015 of Naruvamoodu Police Station. The said crime is registered for an offence under Section 394 of I.P.C. It is the submission that the allegation is that on 18.1.2015 the petitioner along with another demanded the defacto complainant to pay Rs.50,000/- as goonda fee and on refusal a sum of Rs.42,500/- snatched away and assaulted the defacto complainant and thereby committed the above offence.

3. It is the submission that no stretch of imagination can believe the said version of the prosecution. It is also the submission that there was a huge deposit of sand near the

house of the petitioner and the defacto complainant and his associates had attempted to take the sand deposit. This was obstructed by the petitioner and others and consequently the Panchayat authorities prohibited the mining of sand by the defacto complainant and others. Provoked by the same, on the misunderstanding that the petitioner is the person who is behind the prohibition, the said crime is brought into existence.

4. I heard the learned Public Prosecutor, who submitted before me that the crime is registered under Section 394 of IPC. It is a grave crime and custodial interrogation is highly necessary. It is the further submission that recovery is also necessary.

5. Thus, considering the totality of the case, I feel that it may not be proper to grant anticipatory bail in this case. But at the very same time considering all aspects, it is ordered that before arresting the petitioner the police shall strictly comply with the provisions enumerated under Section 40 of Cr.P.C.

With the above direction, this anticipatory bail application dismissed.

Sd/-

**K.P. JYOTHINDRANATH
JUDGE**

//True copy//

P.A. TO JUDGE

shg/