

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

Bail Appl..No. 6860 of 2014 ()

CRL.MP 7862/2012 of J.M.F.C.,CHITTUR
CRIME NO. 201/2012 OF KOZHINJAMPARA POLICE STATION , PALAKKAD

PETITIONERS/ACCUSED NO 3-6:

1. K.M.MUHAMMED, AGED 76 YEARS
S/O MOIDU MAULAVI, KADAMBATTU HOUSE, ERIYAD POST
KODUNGALLOOR, THRISSUR DISTRICT 680666
2. K.M. ABDUL KHADER, AGED 71 YEARS
S/O MOIDU MAULAVI, KADAMBATTU HOUSE, ERIYAD POST
KODUNGALLOOR, THRISSUR DISTRICT 680666
3. K.M. ABDUL SALAM AGED 65 YEARS
S/O MOIDU MAULAVI, KADAMBATTU HOUSE, ERIYAD POST
KODUNGALLOOR, THRISSUR DISTRICT 680666
4. FATHIMA, AGED 65 YEARS
W/O MOIDHEEN, PADIYATH HOUSE, ERIYAD POST
KODUNGALLOOR, THRISSUR DISTRICT 680666

BY ADVS.SRI.C.P.UDAYABHANU
SRI.G.SIJI
SMT.P.A.MENISHA
SMT.T.V.ASWATHY
SRI.K.A.NOUSHAD
SMT.K.S.SANGEETHA (KOOMBEL)

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE S.I OF POLICE
KOZHINJAMPARA POLICE STATION
(CRIME NO 201/2012) REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682031

R1 BY ADV. SRI.LOWEL CHERIAN
R BY PUBLIC PROSECUTOR, SRI.SREEJITH V.S.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
28-01-2015 ALONG WITH B.A.6861/14 & 6866/14, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

B.KEMAL PASHA, J.

B.A.Nos.6860, 6861 and 6866 of 2014

Dated this the 28th day of January 2015

ORDER

Petitions under Section 438 Cr.P.C.

2. Petitioners in B.A. No.6860/2014 are accused Nos.3 to 6 in Crime No.201/2012, petitioners in B.A. No.6861/2014 are accused Nos.3 to 9 in Crime No.173/2012 and petitioners in B.A.No.6866/2014 are accused Nos.3 to 6 in Crime No.172/2012. All these crimes are of Kozhinjampara police station, Palakkadu district registered for the offences punishable under Sections 120B, 420, 468, 471, 474 and 477 read with Section 34 of the Indian Penal Code.

3. It seems that 3 private complaints were filed before the Judicial First Class Magistrate's Court, Chittoor, which were

referred to the police under Section 156(3) of Code of Criminal Procedure and consequently, the said crimes have been registered.

4. All the petitioners are co-owners in respect of the properties in question. It is alleged that they, along with accused Nos.1 and 2, had executed 3 sale deeds in respect of the properties in favour of the de-facto complainants in all the said crimes. It is alleged that prior to the execution of the sale deeds, accused Nos.1 and 2 had obtained attested copies of the documents in respect of the properties and had created equitable mortgage in respect of the said properties before various banks and obtained huge amounts by way of loans. At the same time, the original of the documents were handed over to the vendees during the execution of the sale deeds. The banks have instituted suits for the recovery of the amounts and presently, the persons who purchased the property are in hot waters.

5. Heard the learned counsel for the petitioners and the

learned Public Prosecutor.

6. The learned counsel for the petitioners has pointed out that the petitioners had nothing to do with the matters, as they had executed the sale deeds and the original documents were already handed over. It is also pointed out that there is no allegation that any of the petitioners had approached any of the banks with the copies of the documents for obtaining loans. Admittedly, the loans were availed of by accused Nos.1 and 2. According to the petitioners, those amounts were obtained by accused Nos.1 and 2 without the junction of these petitioners. Considering the facts and circumstances of these cases, I do not find any involvement of these petitioners in procuring the loans from various banks by furnishing the attested copies of those documents. When these petitioners have executed the sale deeds and handed over original of the documents, they cannot be found fault with in the matter. Considering the facts and circumstances of the cases, I am of the

view that the custodial interrogation of the petitioners is not required for the continued investigation of these cases. Considering all the above, I am of the view that these are fit cases wherein anticipatory bail can be granted to the petitioners.

7. In the result, this bail application is allowed and the investigating officer or such other police officer, who is conducting the arrest of the petitioners in B.A.Nos.6860/2014, 6861/2014 and 6866/2014, is directed to enlarge them on bail in the event of their arrest on each of them executing a bond for ₹25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer conducting arrest, and subject to the following terms and conditions:-

(i) These petitioners shall report before the investigating officer in between 9 a.m. and 11 a.m. on all Wednesdays and Saturdays, commencing from 4.2.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier.

(ii) These petitioners shall not tamper with the

evidence or influence witnesses.

(iii) These petitioners shall make themselves available for interrogation as and when required by the investigating officer.

(iv) These petitioners shall not involve in any offence while on bail.

It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail.

Sd/-
B.KEMAL PASHA,
JUDGE

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PA to Judge