

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Bail Appl..No. 6986 of 2015 ()

CRIME NO. 2452/2015 OF KOTTARAKKARA POLICE STATION.

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PETITIONER/ACCUSED:

**RAJESH SIVASANKARA PILLAI,
S/O. SIVA SANKARA PILLAI, SREE MANGALAM,
KIZHEKKAKRA, KOTTARAKARA.**

**BY SRI.P.VIJAYA BHANU, SENIOR ADVOCATE.
ADV. SRI.DINNY THOMAS.**

RESPONDENT/COMPLAINANT:

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

*** ADDL. R2 IMPEADED**

**2. MANOJ, S/O.VASU, NALLADATH HOUSE,
KACHERY VILLAGE, VALLOYIL P.O.,
KOZHIKODE DISTRICT.**

*** ADDL. R2 IS IMPEADED AS PER ORDER DATED 15/12/2015
IN CRL.MA. NO.10673/2015.**

**R1 BY PUBLIC PROSECUTOR SMT.R. REMA.
ADDL. R2 BY SRI.S.SREEKUMAR, SENIOR ADVOCATE.
ADVS. SRI.P.MARTIN JOSE,
SRI.P.PRIJITH,
SRI.THOMAS P.KURUVILLA.**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

A.HARIPRASAD, J.

B.A. No.6986 of 2015

Dated this the 15th day of December, 2015

ORDER

Petition under Section 438 of the Code of Criminal Procedure.

2. Kottarakara Police Crime No.2452 of 2015 is registered on the basis of a private complaint filed by the additional second respondent. The complaint was filed before the Judicial First Class Magistrate Court - I, Kottarakara and that was forwarded for investigation under Section 156(3) Cr.P.C. The offence alleged in the complaint is punishable under Section 420 I.P.C.

3. Gist of the allegations in the complaint is that both the complainant and accused are conducting business in a gulf country and they were known to each other for long. The accused agreed to assign a property to the complainant and an agreement to assign was executed and registered. Subsequently, the accused informed the complainant that he has another property to be sold and the complainant agreed to purchase the same for a price. Towards the consideration, various cheques drawn on foreign banks worth more than Rs.6 Crores were handed over to the accused. Later, it was

revealed that the accused had no title in respect of the property agreed to be sold. Therefore, it is alleged that he committed cheating of the complainant.

4. Heard the learned Senior Counsel for the petitioner, the learned Senior Counsel for the complainant and the learned Public Prosecutor.

5. Learned Senior counsel for the complainant submitted that the petitioner is not available in Kerala and still he seeks anticipatory bail. In answer to this contention, learned Senior counsel for the petitioner submitted that petitioner is very much available in the State and he has secured anticipatory bail in connection with another case. He could not execute the anticipatory bail on account of the threat of arrest in this case.

6. Learned Senior counsel for the complainant submitted based on documents produced that the petitioner had encashed various cheques from different banks in Gulf. Learned Senior counsel for the petitioner per contra contended that the complaint

was filed on 30-09-2015. Allegations in the complaint show that various cheques have been encashed. Going by the documents produced by the complainant himself, it can be seen that the cheques issued by the complainant were encashed only in the month of October and November, 2015 which according to the learned Senior counsel will indicate the falsity of the prosecution case. It is the consistent case of the accused that there are other business transactions between the petitioner and the complainant for which some of the cheques were adjusted. It is also contended that the case of the complainant that no document was executed for handing over more than Rs.6 Crores is per se unbelievable. Considering the nature of allegations and the manner in which the investigation has to be done, following directions are issued :

1. Petitioner shall surrender before the investigating officer within three days from today and submit himself for interrogation on three consecutive days. In that event, he shall be released on bail on executing a bond for Rs.1,00,000/- (Rupees one lakh only) with

two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.

2. The sureties shall produce documents to establish their identity and solvency.
3. Petitioner shall appear before the Investigating Officer as and when directed.
4. Petitioner shall not influence or intimidate witnesses.
5. If any of the above conditions is violated by the petitioner, the learned Magistrate having jurisdiction is free to cancel the bail.

amk

Sd/-
A.HARIPRASAD,
JUDGE.

//True copy//

P.Ato Judge