

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

Bail Appl..No. 7836 of 2015 ()

CRIME NO. 665/2015 OF KILIMANOOR POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED NOS. 5 & 9 :

- 1. KIRAN RAM, AGED 25 YEARS
S/O.MOHAN DAS, RAM BHAVAN, PGP IX/108A
MAHADEVESWARAM, KILIMANOOR,
THIRUVANANTHAPURAM.**
- 2. MOHAN DAS, AGED 65 YEARS
S/O. MADHAVAN PILLAI, RAMBHAVAN , PGP IX/108A
MAHADEVESWARAM, KILIMANOOR,
THIRUVANANTHAPURAM.**

BY ADV. SRI.M.T.SURESHKUMAR

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC ROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031**

BY PUBLIC PROSECUTOR SMT. MADHUBEN M.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17-12-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

K.P. JYOTHINDRANATH, J.

B.A. No. 7836 of 2015

Dated this the 17th day of December, 2015

O R D E R

This is an application filed under Section 438 of the Code of Criminal Procedure. When the petition came up for hearing, the counsel for the petitioners submitted before us that a civil case is given a colour of criminal offence by the prosecution. A Co-operative Bank which is managed by politicians, using their influence, got registered a crime against the petitioners herein.

2. The facts in a nutshell is that the first accused in Crime No.665/2015 purchased a property from accused No.11 and 12 and it is the case of the prosecution now that it was a property involved in a civil suit and against which an order of specific performance ordered by a competent civil court and it is the case that, meanwhile the purchasers

mortgaged the same and availed a loan, petitioners stood as sureties, thereby committed the offence. It is the submission that, standing as sureties in the Bank now made them accused in the crime.

3. I heard the learned Public Prosecutor.

4. Prosecutor submitted before me that there is a case where there was a conspiracy and in execution of the said conspiracy, the accused Nos.1 to 12 acted and siphoned about Rupees One crore from that Bank. The Bank actually lost Rupees One crore by the acts committed by these petitioners. It is also brought to my notice that, as per the prosecution case, the petitioners herein received Rs.10 lakhs each from the said amount.

5. The learned counsel for the petitioners submitted that, all the evidence relating, at least in respect of these petitioners, can be, if true, proved by documents. A custodial interrogation is not necessary. The documents, if necessary, can be seized by the police from the Bank itself and the Bank is the custodian of the documents allegedly

executed by these petitioners. Under such circumstances, a custodial interrogation is not warranted.

Thus, considering the totality of the case and further keeping in mind the natural investigation involved, I feel that the following order can be passed:

- i) The petitioners shall appear before the Investigating Officer within 10 days from the date of this order. On such appearance, the Investigating Officer is at liberty to interrogate the petitioners. If the interrogation is not over, it can be continued on the next day or any other working day as the Investigating Officer directs. After the completion of the interrogation, if the Police Officer feels that the arrest is necessary, he is at liberty to arrest the petitioners. After arrest, if any recovery is necessary that also can be made. Thereafter, the petitioners shall be released on bail on executing a bond for Rupees One lakh with solvent sureties.

ii) The petitioners shall appear before the Investigating Officer on all Saturdays in between 10.00 a.m. and 12 noon for a period of three months.

iii) If the first petitioner is having any passport, he shall produce the same before the Investigating Officer with a photocopy of the same and after perusal of the same, the original shall be given back to the first petitioner, keeping the photocopy in the case diary.

iv) It is made clear that if an application under Section 311 A of the Code of Criminal Procedure is filed before the concerned Magistrate, the petitioners shall co-operate with the same.

On the above conditions, this anticipatory bail application is allowed.

Sd/-
K.P. JYOTHINDRANATH
JUDGE