

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

Bail Appl..No. 7912 of 2015 ()

PETITIONER/ACCUSED:

**BIJU MATHEW ABRAHAM
S/O.MATHEW ABRAHAM, NANA VEETIL
PUTHEN PARAMBIL VEEDU, KOZHENCHERY**

**BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN**

RESPONDENT/STATE :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**

BY SRI C.RASHEED, PUBLIC PROSECUTOR

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

JV

K. RAMAKRISHNAN, J.

B.A.No.7912 of 2015

Dated this the 22nd day of December, 2015

ORDER

This is an application filed by the petitioner anticipating arrest in respect of a non-bailable offence on the basis of a complaint given by one Thomas K.Thomas before the Aranmula Police Station under Section 438 of the Code of Criminal Procedure.

2. When the application came up for hearing today, the learned Public Prosecutor Sri C.Rasheed submitted that there is no crime registered against the petitioner on the basis of any complaint given by Thomas K.Thomas against the petitioner in Aranmula Police Station. But the learned counsel for the petitioner submitted that to his knowledge, a petition has been filed by the said person and that pending and at any moment, it is likely to be converted into a crime and he is likely to be arrested. It may be mentioned here that since there is no case registered against the petitioner as claimed by him in the petition on the basis of a complaint given by one Thomas

K.Thomas alleging non-bailable offence, at this stage, he cannot claim a blanket anticipatory bail without a crime number invoking the power under Section 438 of the Code of Criminal Procedure. However if any crime has been registered, the police is bound to follow the procedure under Section 41A of the Code of Criminal Procedure and also to follow the principles laid down in the decision of the Apex Court in **Arnesh Kumar v. State of Bihar and Another [2014 (3) KHC 69]** in connection with the arrest of persons.

So under the circumstances, there is no necessity to issue any direction to the Police in this regard as they are bound to follow the procedure. With the above directions and observation, the petition is dismissed.

SD/-
K. RAMAKRISHNAN,
JUDGE

JV