

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Bail Appl..No. 9027 of 2014 ()

CRIME NO. 2441/2014 OF KOTTARAKARA POLICE STATION, KOLLAM DISTRICT

PETITIONER/2ND ACCUSED :

**JAYASREE S.,
32 YEARS, W/O.SURESH KUMAR,
KELAMATHU KONNA VEEDU
AMBALATHUMKALA P.O., NADUVATHOOR,
KOTTARAKARA.**

BY ADV. SRI.SYAM J. SAM

RESPONDENT/COMPLAINANT :

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

***ADDL. R2 IMPEADED**

***ADDL.R2. ALEXANDER
S/O. OOMMACHEN, AGED 67 YEARS
MELOOTTU KOCHU PUTHEN VEEDU
KIZHEKETHERUVU P.O., KOTTARAKARA
KOLLAM DISTRICT.**

***ADDL. R2 IS IMPEADED AS PER ORDER IN CRL.M.A NO. 5390/2015
DATED 31/07/2015.**

**R1 BY PUBLIC PROSECUTOR SRI. SREEJITH V.S.
ADDL.R2 BY ADV. SRI.ALEXANDER GEORGE**

**THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 31-07-2015,
ALONG WITH BA NO. 9035/2014, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

Mn

K. ABRAHAM MATHEW, J.

B.A.Nos. 9027 & 9035 of 2014

Dated this the 31st day of July, 2015

COMMON ORDER

Petitions filed under Section 438 Cr.P.C.

2. Petitioners are accused in Crime No. 2441 of 2014 of Kottarakara Police Station, registered for the offences under Sections 120B, 417, 420 read with Section 34 of the Indian Penal Code.

3. The first accused is owner of a property. It is alleged that she offered to sell it to the first informant through the second accused. An agreement for sale was executed. The total sale consideration was Rs.17,00,000/-. The first informant allegedly paid Rs.6,00,000/- towards sale consideration. The sale was to take place on 11.04.2014. It is further alleged that on that day the petitioners came to the document writer's office, where the sale deed was executed. The first informant paid the balance sale consideration of Rs.11,00,000/- to the first accused. When the sale deed was taken to the office of the Sub Registrar for registration, it was disclosed that the property had an attachment.

It is alleged by the prosecution that the petitioners suppressed it from the first informant. When the latter allegedly demanded the amount, the first petitioner issued a receipt for Rs.17,00,000/-. She undertook to get the property released from attachment within two months. But she did not do so. On 05.09.2014, she allegedly issued a cheque for Rs.17,00,000/- which was dishonoured by the bank.

4. Heard the learned counsel for the petitioners and the first informant and the learned Public Prosecutor.

5. It is quiet unbelievable that the first informant did not even take an encumbrance certificate before the sale deed was executed, though the sale consideration was Rs.17,00,000/-. I have perused the copy of the cheque allegedly issued by the first petitioner on 05.09.2014. The signature in it differs from the signature of the first petitioner in the agreement for sale, for which there is no explanation. These suspicious circumstances incline me to grant anticipatory bail to the petitioners.

In the result, these applications are allowed.

1) The petitioners shall be released on bail on their executing a bond for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum if they are arrested by the Police in connection with this case.

- 2) The petitioners shall surrender their passports before the lower court concerned or if they do not have one, they shall file affidavits to that effect within five days of their release.*
- 3) They shall not leave India without the previous permission of the court of enquiry or trial court, as the case may be.*
- 4) They shall appear before the Investigating Officer for interrogation if they are so required by him in writing.*
- 5) They shall not intimidate or attempt to influence the witnesses.*
- 6) They shall not destroy or tamper with evidence.*
- 7) They shall not get themselves involved in any other criminal case while they are on bail.*

If the petitioners surrender before the Magistrate this order is not applicable and the learned Magistrate may pass appropriate orders.

In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law.

Sd/-
K. ABRAHAM MATHEW,
JUDGE

DST

//True copy//

P.A. To Judge