

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Crl.MC.No. 273 of 2015 ()

CP 171/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KARUNAGAPPALLY

PETITIONER/ACCUSED:

**BINAMSI @ BABU, AGED 49 YEARS
S/O.JOSEPH FERNANDEZ, PALLIYUDEKIZHAKKETHIL
AREEKKAL, ALAPPADU, KOLLAM**

BY ADV. SRI.SYAM J SAM

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SD

P. UBAID, J.

Crl.M.C.No. 273 of 2015

Dated this the 15^h day of January, 2015

O R D E R

The petitioner herein is the accused in C.P. No.171/2014 of the Judicial First Class Magistrate Court, Karunagapally. On the apprehension of arrest and remand to judicial custody in execution of a warrant of arrest issued from the trial court he seeks orders from this Court under Section 482 of the Code of Criminal Procedure directing the court below to recall the warrant and to release him on bail, or to decide and dispose of his application for bail, without delay. Of course, the relief as sought by the petitioner cannot be granted by this Court under Section 482 of the Code of Criminal Procedure. The learned Magistrate, who has issued warrant of arrest for proper reasons, will have to consider the request to recall the warrant. It is for the trial court to decide whether bail could be granted to the petitioner. Of course, the petitioner will have to surrender before the trial court and make application for bail. He will have to explain the reason for his absence in court, and he will have to explain the

circumstances in which warrant happened to be issued. When such satisfactory explanation is there, the question of releasing him on bail on appropriate conditions can be thought of by the learned Magistrate. Anyway, let appropriate decision regarding bail be taken by the learned Magistrate. However, a direction can be made to consider and dispose of the application for bail on the date of surrender itself.

In the result, this petition is closed with direction to the court below that in case the petitioner makes application for bail on surrender in C.P. No.171/2014, the same shall be judiciously considered and decided, on the date of surrender itself, however, with notice to the other side.

Sd/-

P. UBAID, JUDGE

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