

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

Cr1.MC.No. 474 of 2015

IN CP 117/2008 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
KUNNAMKULAM

PETITIONER/1ST ACCUSED:

MUBARAQ T.T, AGED 37 YEARS,
S/O.KUNHIMOHAMMED, THAZHATHAYYIL HOUSE,
AYILUR P.O,
PERUMBADAPPU VILLAGE, PONNANI TALUK,
MALAPPURAM DISTRICT.

BY ADVS.SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM - 682 031.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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P.UBAID, J.

Crl.M.C No.474 of 2015

Dated this the 23rd day of January, 2015

O R D E R

The petitioner herein is the 1st accused in C.P No.117/2008 of Judicial First Class Magistrate Court, Kunnankulam. On the apprehension of arrest and remand to judicial custody in execution of a warrant of arrest issued from the court below 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 court below to decide whether bail could be granted to the petitioner. Of course, the petitioner will have to surrender before the learned Magistrate 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 the 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.117/2008, the same shall be judiciously considered and decided, on the date of surrender itself, however, with notice to the other side.

**P.UBAID
JUDGE**

ab