

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

Crl.MC.No. 503 of 2015

CRIME NO. 450/2014 OF MANNANCHERRY POLICE STATION , ALAPPUZHA DISTRICT

PETITIONER(S)/ACCUSED :

**KUMARADAS, AGED 25 YEARS,
S/O.GOPALAKRISHNAN, GOPAL NIVAS,
MARARIKULAM SOUTH PANCHAYAT, WARD NO.VIII,
PATHIRAPPALLY P.O., ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.S.SHANAVAS KHAN
SMT.S.INDU**

RESPONDENT(S)/COMPLAINANT :

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

BY PUBLIC PROSECUTOR SRI.JIBU.P.THOMAS

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A:** TRUE COPY OF FIR IN CRIME NO.450/14 OF MANNANCHERRY POLICE STATION.
- ANNEXURE B:** TRUE COPY OF THE REPORT DATED 15.10.2014 SUBMITTED BY THE DEPUTY POLICE SUPERINTENDENT BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALAPPUZHA.
- ANNEXURE C:** TRUE COPY OF THE ORDER DATED 07.07.2014 IN CRL.M.P.NO.2569/2014 OF THE HON'BLE COURT OF SESSIONS JUDGE, ALAPPUZHA.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B. KEMAL PASHA, J.

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Crl.M.C. No.503 of 2015
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Dated this the 27th day of January, 2015

ORDER

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Petitioner is the sole accused in Crime No.450/2014 of Mannancherry Police Station registered for the offences punishable under Sections 457, 323, 294(b) and 354 read with Section 34 IPC and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The apprehension of the petitioner is that, as the petitioner is not entitled to anticipatory bail under Section 438 Cr.P.C. as per the provisions contained in Section 18 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the petitioner is ready to surrender

before the court below, and in case of such surrender, the petitioner will be remanded to custody without considering the application seeking bail, as an offence under Section 3 (1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is involved.

3. I do not find any merit in the said apprehension forwarded by the learned counsel for the petitioner. It has been made clear by this Court repeatedly that even though the offence under the said Special Act is triable by a Special Court and such Special Court is the Principal Sessions Court of the concerned district, the learned Magistrate is not powerless to grant bail to the accused in such offences, wherein the accused are entitled to be enlarged on bail based on the merits of the matter. See ***Shanu Vs. State of Kerala [2000 (3) KLT 452]*** and ***Ali Vs. State of Kerala [2000 (2) KLT 280]***.

4. In such case, if the learned Magistrate is of the

view that it is a fit case wherein the accused can be enlarged on bail, the learned Magistrate is not powerless to grant bail to the accused in appropriate cases.

With the said observations, this CrI.M.C. is disposed of.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/27/01

// True Copy //

PA to Judge