IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

Crl.MC.No. 511 of 2015 ()

CC 701/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II,PERINTHALMANNA
CRIME NO. 372/2010 OF WANDOOR POLICE STATION , MALAPPURAM DISTRICT

==========

PETITIONER/4TH ACCUSED:

K.ASHIQ, AGED 30 YEARS
S/O KOYA, KOZHISSERY HOUSE
ERIYAD, THIRUVALIL AMSOM
MALAPPURAM DISTRICT.

BY ADV. BINDUSREE KUMAR

RESPONDENT/STATE AND COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 511 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A1: TRUE COPY OF THE FIR IN CRIME NO.372/2010 OF VANDOOR POLICE STATION, ON THE FILE OF JFMC-II, PERINTHALMANN.

ANNEXURE A2: TRUE COPY OF THE JUDGMENT CONVICTING THE ACCUSED PERSONS A1,A2,A3 AND A5

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.511 of 2015

Dated this the 29th day of January, 2015

O R D E R

The petitioner herein is the 4th accused in C.C.No.528/2011 before the Judicial First Class Magistrate Court-II, Perinthalmanna. The other accused Nos.1,2,3 and 5 were convicted on trial. The case against the petitioner was split up and refiled as C.C.No.701/2014. On the apprehension of arrest and remand to judicial custody in execution of a warrant of arrest issued from the court he seeks orders from this Court under Section 482 of the Code of Criminal Procedure directing the court below 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. 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 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 trial judge. 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.C.No.701/2014, 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

sd