

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. 566 of 2015 ()

AGAINST CC 1347/2012 of J.M.F.C.,ALATHUR
CRIME NO. 348/2009 OF ALATHUR POLICE STATION , PALAKKAD

PETITIONER(S)/ACCUSED NO.2:

REHIM
S/O.NOORMUHAMMED, CHERAMPARIYARATH HOUSE, THONIPPADAM
ALATHUR, PALAKKAD.

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT(S)/DEFACTO COMPLAINANT/STATE:

STATE OF KERALA
REPRESENTED BY 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
29-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.UBAID, J.
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**Crl.M.C No. 566 of 2015**  
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Dated this the 29th January, 2015

ORDER

The petitioner herein is the 2nd accused in C.C No.1347 of 2012 of the Judicial First Class Magistrate's Court, Alathur. 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 court below 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 Magistrate. The learned Magistrate will have to examine the records and see whether this is in fact a case of house trespass with preparation to cause hurt, or only a case of house trespass with intention to cause hurt coming under Section 451 I.P.C, which is bailable. 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.1347 of 2012 of the Judicial First Class Magistrate's Court, Alathur, 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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/True copy/

P.S to Judge