

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 863 of 2015 ()

LP 8/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-V, ERNAKULAM

PETITIONER/ACCUSED:

**NAHAS T.M., AGED 27 YEARS
S/O.MOHAMMED KUNJU, THEKKETHATTATHIL HOUSE
S.R.P.M P.O, THAZHAVA, KARUNAGAPPALLY
KOLLAM 690 539.**

**BY ADVS.SRI.K.G.RAJEESH
SRI.MAHADEVAN.K**

RESPONDENTS/STATE &COMPLAINANT:

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- 1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.**
 - 2. RELIANCE COMMUNICATIONS INFRASTRUCTURE LTD
REGISTERED OFFICE AT E.O-1, RELIANCE GREENS
VILLAGE MOTTIKKAVADI, DIGVIJAY GRAM P.O
REPRESENTED BY POWER OF ATTORNEY V.K.SAJITH.**

R1 BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SD

P. UBAID, J.

Crl.M.C.No.863 of 2015

Dated this the 11th day of February, 2015

O R D E R

The petitioner herein is the accused in C.C.No.1588/2009 of the Judicial First Class Magistrate Court-V, Ernakulam. The case now stands transferred to the register of long pending cases as L.P.No.8/2014, when the petitioner remained consistently absent. 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 recall the warrant of arrest. 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. It is for the learned Magistrate 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 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. I do not think that the learned Magistrate will mechanically remand the petitioner to judicial custody, when the offence is bailable. 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 L.P.No.8/2014 of the Judicial First Class Magistrate Court-V, Ernakulam, 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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