

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Crl.MC.No. 1245 of 2015 ()

**IN CMP 4042/2014 of J.M.F.C.-II, ALUVA DATED
CRIME NO. 1023/2013 OF ALUVA WEST POLICE STATION (ALANGAD) , ERNAKULAM**

PETITIONER(S):

**MUHAMMED NOUFAL AGED 26 YEARS
S/O.ABDUL SALAM, CHETTIPARAMBIL HOUSE, MATTUPURA
MANNAM (P.O), N.PARAVUR TALUK, ERNAKULAM (DIST.)**

**BY ADVS.SRI.ANIL K.MOHAMMED
SRI.V.S.MANSOOR**

RESPONDENT(S):

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA.**

R BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1245 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: A TRUE PHOTOCOPY OF THE REGISTRATION CERTIFICATE OF VEHICLE BEARING NO. KL-05-U-8019.

ANNEXURE B: A TRUE PHOTOCOPY OF SALE LETTER.

ANNEXURE C: TRUE COPY OF ORDER DATED 04/02/2015 IN C.M.P.NO. 4042 OF 2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ALUVA.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

**PA TO JUDGE
sab**

P.UBAID, J.

Crl. M.C No.1245 of 2015

Dated this the 11th day of March, 2015.

O R D E R

The petitioner herein claims to be the registered owner of the vehicle KL-05-U-8019. The said vehicle was seized by the Aluva West Police in Crime No.1023 of 2013 registered under the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. The vehicle was produced by the police before the Judicial First Class Magistrate court having jurisdiction. The petitioner filed an application under Section 457 Cr.PC as C.M.P No.4042 of 2014 for interim custody of the vehicle. The learned Judicial First Class Magistrate Court-II, Aluva granted interim custody of the vehicle to the petitioner on certain conditions. The petitioner is aggrieved by some of the conditions. He seeks orders quashing these objectionable conditions. The condition No.2 imposed by the court below is that the petitioner shall make deposit of Rs.50,000/- as security. The petitioner is really aggrieved by this condition. The total value of the vehicle assessed is Rs.63,000/-. Then it is not known why the petitioner is directed

to deposit Rs. 50,000/- as security. This court has settled the position recently, after the introduction of Section 23(A) in the Sand Act, that in such matters the judicial Magistrate deciding application for interim custody will have discretion in the imposing conditions. It appears that the latest decision was not brought to the notice of the learned Magistrate in this matter. On a consideration of the entire materials including value of the vehicle, I find that direction to deposit 1/4th of the value of the vehicle would be appropriate. All other conditions will have to continue in force.

In the result, this petition is allowed in part. The second condition imposed by the court below as per the order dated 4.2.2015 in C.M.P No.4042 of 2014 directing the petitioner herein to make a cash deposit of Rs.50,000/- is modified to the effect that the petitioner shall make deposit of 1/4th of the value of the vehicle assessed by the Motor Vehicle Inspector.

P.UBAID,
JUDGE