

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Crl.MC.No. 1391 of 2015 ()

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CC 240/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PERINTHALMANNA
CRIME NO. 205/2012 OF MELATTOOR POLICE STATION , MALAPPURAM DISTRICT
=====**

PETITIONERS/ACCUSED 5 AND 8:

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- 1. K.V.SASI, AGED 33 YEARS
S/O.APPUKUTTAN, KODUVAYAKKAL HOUSE, PALLIKUTH
P.O.PATTIKKAD-679325, MALAPPURAM DISTRICT.**
 - 2. MUSTHAFAP, AGED 23 YEARS
S/O.MOHAMMED ALI, PULIYAKUNNAM HOUSE, PALLIKUTTH
P.O.PATTIKKAD-679325, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENT/COMPLAINANT:

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

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SD

P. UBAID, J.

Crl.M.C.No.1391 of 2015

Dated this the 10th day of March, 2015

O R D E R

The petitioners herein are the accused Nos. 5 and 8 in C.C.No.240/2013 of the Judicial First Class Magistrate Court-II, Perinthalmanna. On the apprehension of arrest and remand to judicial custody in execution of a warrant of arrest issued from the trial court, they seek orders from this Court under Section 482 of the Code of Criminal Procedure directing the court below to release them on bail on the date of their surrender itself. Of course, the relief as sought by the petitioners 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 petitioners. I do not think that the learned Magistrate will mechanically remand the petitioners to judicial custody, when the offences are bailable. The petitioners will have to surrender before the trial court and make application

for bail. 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 petitioners make application for bail on surrender in C.C.No.240/2013, the same shall be judiciously considered and decided, on the date of surrender itself. The petitioners are given time for ten days to surrender before the learned Magistrate, and make application for bail. In the mean time, execution of warrant of arrest will stand suspended.

Sd/-

P. UBAID, JUDGE

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