

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

Crl.MC.No. 1482 of 2015 ()

CRIME NO. 680/2013 OF ALAKODE POLICE STATION , KANNUR

PETITIONER(S):

**E.ABDHUL JALEEL AGED 32 YEARS
S/O.UMMER, FATIMA MANZIL, CHENAYANNUR
KUTTIYERI, KANNUR**

**BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, 682031**
- 2. THE STATION HOUSE OFFICER
ALOKODE POLICE STATION, THALIPARAMABA, KANNUR 670141

R BY PUBLIC PROSECUTOR SMT. P. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1482 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE AI: CERTIFIED COPY OF THE ORDER DATED 14.03.2014 IN
CMP.NO.115/2014 IN CC.NO.275 OF 2014 OF THE JFCM,
THALIPARAMABA**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No.1482 of 2015

Dated this the 19th day of March, 2015.

O R D E R

The petitioner herein is the registered owner of the vehicle No.KL-10-AJ/5246 Mini Lorry involved in crime No.680 of 2013 of the Alakode police station, registered under Section 20 of the Kerala Protection of River Banks and Regulation of Removal of Sand act (Sand Act). The learned Judicial First Class Magistrate, Thaliparamba granted interim custody of the said vehicle to the petitioner on certain conditions as per the order dated 14.3.2014 in C.M.P No.115 of 2014. The petitioner is aggrieved by the second condition directing him to furnish bank guarantee or property security. It appears that the very recent decision of this Court explaining the legal position after the amendment to the Sand Act was not brought to the notice of the learned Magistrate. The decisions referred to in the impugned order are pre -amendment decisions. Now there is section 23 A in the Sand Act brought the amendment, giving discretion to the

Judicial Magistrate to impose appropriate conditions for releasing properties under Section 451 or 457 Cr.P.C. There is already a direction to deposit a fraction of the value of the vehicle. I find that the Impugned condition is really irrational, unreasonable and onerous. It will suffice that a bond is executed by the petitioner with a solvent surety for Rs.3 lakhs. I am inclined to set aside the condition in the present circumstances.

In the result, this petition is allowed. The impugned condition (b) imposed by the court below as per the order dated 14.03.2014 in C.M.P No.115 of 2014 will stand set aside on a further condition that the petitioner shall execute a bond with one solvent surety for Rs.3 lakhs to the satisfaction of the learned Magistrate.

P.UBAID,
JUDGE