

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

Cr1.MC.No. 1631 of 2015  
-----

IN S.T 942/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT  
I, PARAPPANANGADI  
CRIME NO. 128/2015 OF TANUR POLICE STATION, MALAPPURAM

PETITIONER:  
-----

PALLIYALI ENINKUTTY @ KUNHUTTY,  
AGED 61 YEARS, S/O.KUNHALAVI,  
ARIYALLOOR AMSOM DESOM,  
PARAPPANANGADI POLICE STATION

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS/STATE, COMPLAINANTS & DEFACTO COMPLAINANT:  
-----

1. STATE OF KERALA THROUGH THE STATION HOUSE OFFICER,  
TANUR POLICE STATION, MALAPPURAM DISTRICT,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. THE DISTRICT POLICE CHIEF,  
MALAPPURAM - 676 505
3. C.P.KUMARAN, AGED 71 YEARS,  
S/O.APPUKUNHAN, CHIRAKKAPARAMBIL HOUSE,  
PARIYAPURAM AMSOM, PANANGATTUR DESOM,  
P.O PANANGATTUR - 676 302.

R1 & R2 BY SR.PUBLIC PROSECUTOR SMT.SAMEERA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 13-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE ORDER PASSED IN S.T NO.942/2013 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT NO.1, PARAPPANANGADI DTD.8.12.2014

ANNEXURE A2: COPY OF THE COMPLAINT FILED BY THE 3RD RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PARAPPANANGADI

ANNEXURE A3: COPY OF THE FIR IN CRIME NO.128/2015 ON THE FILE OF TANUR POLICE STATION, MALAPPURAM

ANNEXURE A4: COPY OF THE REPLY NOTICE

ANNEXURE A5: COPY OF THE RECEIPT DTD.7.3.2015 ISSUED TO THE PETITIONER.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

**P.UBAID, J.**

-----  
**Crl.M.C No.1631 of 2015**  
-----

Dated this the 13<sup>th</sup> day of March, 2015

**O R D E R**

The petitioner herein is the 1<sup>st</sup> accused in Crime No.128/2015 of the Tanur Police Station, registered under Sections 468 and 471 of the Indian Penal Code. On the apprehension of arrest as part of investigation, he now wants to surrender before the learned Magistrate having jurisdiction. But he apprehends remand to judicial custody. It is submitted that the 2<sup>nd</sup> accused has already obtained pre-arrest bail from this Court under Section 438 of the Code of Criminal Procedure as per the order in B.A No.997/2015. The petitioner now seeks orders directing the learned Judicial First Class Magistrate, Parappaanangadi to consider and dispose of his application for bail on the date of surrender itself. Though he has sought another prayer to direct the 2<sup>nd</sup> respondent to consider his complaint and take necessary action against the 3<sup>rd</sup> respondent, the learned counsel submitted that, the prayer practically sought by him is only a direction to dispose of the application for bail on

the date of surrender itself. Of course, the petitioner can surrender before the investigating officer or before the learned Magistrate having jurisdiction. However, it is appropriate that a direction be given to the learned Magistrate to dispose of the application for bail without any delay, in case the petitioner surrendered during investigation. Whether he could be granted bail under Section 437 of the Code of Criminal Procedure or not, will have to be considered by the learned Magistrate. This Court cannot make any such direction regarding bail.

In the result, this petition is closed, with direction to the learned Judicial First Class Magistrate, Parappanangadi that in case application for bail is filed by the petitioner either on surrender in Crime No.128/2015 of the Tanur Police Station, or when produced by the police on arrest as part of investigation, the same shall be judiciously considered, and appropriate decision regarding bail shall be taken, on the date of filing of the application itself.

**P.UBAID  
JUDGE**

ab