

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

Crl.MC.No. 1888 of 2015 ()

**CMP 555/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, CHERTHALA
CRIME NO. 426/2014 OF AROOR POLICE STATION, ALAPPUZHA**

PETITIONER/PETITIONER:

**YAHYA.A.K., AGED 37 YEARS
S/O.KHALID, ARIKKANATTU HOSUE, SDPY ROAD
PALLURUTHYU P.O., ERNAKULAM, KOHI-682 06.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SRI.M.F.MOHAMMOD SIYAD
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA
SRI.DENNY VARGHESE**

RESPONDENT/RESPONDENT:

**STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM- REPRESENTING THE SUB INSPECTOR OF POLICE
AROOR POLICE STATION, AROOR-688 534.**

BY PUBLIC PROSECUTOR SMT. S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1888 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-A1. TRUE COPY OF THE ORDER OF THE JUDICIAL FIRST CLASS
MAGISTRATE'S COURT-II, CHERTHALA IN CMP NO.555/2015 DATED
31/1/2015.**

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.1888 of 2015

Dated this the 30th day of March, 2015

O R D E R

The petitioner herein is the 2nd accused in Crime No.426/2014 of the Aroor Police Station, registered under Sections 406 and 420 IPC. He was granted bail by the court below, on certain conditions. In compliance with the conditions, he surrendered his passport in court. Later, he filed an application as CMP No.555/2015 under Section 451 Cr.P.C. for getting his passport, to go abroad. He claims that he is a businessman having some business abroad. He wants to go abroad for a short period, and he affirms that he will come back within a short period. His request was declined by the learned Magistrate on the ground that the investigation is not over. The said order dated 31.01.2015 is under challenge.

2. On hearing both sides, and on a perusal of the complaint in this case, I find that the main allegations in the complaint are against the first accused. The exact role of the petitioner herein is not seen stated or alleged in the complaint. The only circumstance alleged against him is that he was also

seen with the first accused in the transactions.

3. On a perusal of the complaint, I find that the real grievance of the complainant is in fact breach of a sale agreement, and his concern appears to be to recover the amount due from the 1st accused. Any way, investigation is now in progress, and it is not known whether the police has been able to collect any material evidence against the petitioner herein except the solitary allegation that he was also there with the accused when he placed order for goods. Any way, I find that the petitioner's request can be allowed on certain conditions. He will have to come back within a short period and surrender his passport again in court. If the passport is required for any purpose later, he can make application before the learned Magistrate.

In the result, this Crl.M.C. is allowed. The impugned order will stand set aside. The learned Magistrate is directed to release the petitioner's passport on the following conditions.

- a) The petitioner will make a security deposit of Rs.15,000/- (Rupees Fifteen Thousand only) in the trial court, which

will be liable to forfeiture in case of consistent absence during the trial process without excuse.

- b) The petitioner will surrender the passport in court again within six months.
- c) If the passport is again required for travel purposes or other purposes, he can make necessary application before the learned Magistrate.
- d) The amount deposited by him will continue in court deposit till the trial process is over.

Sd/-
P. UBAID, JUDGE

sd