

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

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

CrI.MC.No. 1984 of 2015 ()

CRIME NO. 334/2014 OF KASARAGOD POLICE STATION , KASARAGOD

PETITIONER(S)/ACCUSED 2 TO 4:

- 1. SIDDIQUE**
S/O ABDUL RAZAK, BADAR MANZIL, DELI JUNCTION
PARAVANADUKKAM, CHEMNAD, KASARAGOD DISTRICT
PIN:671 317.
- 2. ASMA**
W/O SIDDIQUE, BADAR MANZIL, DELI JUNCTION
PARAVANADUKKAM, CHEMNAD, KASARAGOD DISTRICT
PIN:671 317.
- 3. HAJIRA**
D/O ABDUL RAZAK, BADAR MANZIL, DELI JUNCTION
PARAVANADUKKAM, CHEMNAD, KASARAGOD DISTRICT
PIN:671 317.

BY ADVS.SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.

RESPONDENT(S)/STATE:

STATE OF KERALA
SHO, KASARAGOD POLICE STATION
KASARAGOD DISTRICT. (CRIME NO.334/2014)
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, PIN:682031.

BY SRI.RAJESH VIJAYAN, PUBLIC PROSECUTOR

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. 1984 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE I: TRUE COPY OF THE ORDER PASSED BY THIS HON'BLE COURT DATED
08.04.2014 IN BAIL APPLICATION NO.2465/2014.**

RESPONDENT(S)' EXHIBITS

NIL

R.AV

//TRUE COPY//

PATO JUDGE

K.RAMAKRISHNAN, J

CRL.M.C.NO.1984 OF 2015

Dated this the 30th day of March, 2015

O R D E R

This is an application filed by the petitioners who are the accused Nos.2 to 4 in Crime No.334/2014 of Kasaragod police station for issuing direction to the Magistrate to release the passport to enable them to undertake Umra under section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the petitioners were arrayed as accused Nos.2 to 4 in Crime No.334/2014 of Kasaragod police station and as per Annexure-1 order in Bail Application No.2465/2014 (C) they along with first accused were granted bail by this court on certain conditions inter alia to produce the passport and also seek permission from the lower court if they want to go out of India. Now, the investigation is over and they want to undertake Umra for which their passport is required. Unless the conditions is modified, the lower court will not release the passport. So the petitioners have no other remedy except to approach this court seeking the following relief:-

to modify the condition (c) in Annexure-1 order and direct the Chief Judicial Magistrate Court, Kasaragod to release the original passport of the petitioners surrendered pursuant to the condition (c) in Annexure-1 order.

3. I have called for a report from the court below, regarding the present stage of the crime and the learned Chief Judicial Magistrate has sent a report which reads as follows:-

"With reference to the above, I may submit that final report in Cr.No.334/2014 of Kasaragod Polcie Station received on 24-10-2014 has been taken on file as C.C.891/2014 on 25-10-2014. The case was posted to 20-03-2015 issuing summons to the accused. On 20-03-2015, the accused was absent and his application for the absence was allowed. The case now stands posted to 01.06.2015 for the appearance of the accused. Even though there were 5 accused persons in the F.I.R., the charge sheet is filed against one accused Badarul Muneer only, and the name of the other accused were deleted by the investigating officer.

The accused was enlarged on bail on 16.04.2014 when they were produced before the Court by the Investigating Officer as per the direction of the Hon'ble High Court of Kerala in Bail Appln.No:2465/14 (C) dated 08.04.2014.

These are submitted for favour of kind information".

4. Heard Adv.Sri.K.V.Sohan, the counsel appearing for the petitioners and Sri.Rajesh Vijayan, the learned Public Prosecutor.

5. The petitioners were originally arrayed as accused Nos.2 to 4 in Crime No.334/2014 of Kasaragod police station alleging offence under section 341, 323, 334, 506(i), 452, 380 and 498A of the Indian Penal Code. As per Annexure-1 order of this court in Bail Application No.2465/2014(C) dated 08.04.2014. The petitioners along with the first accused were granted anticipatory bail with conditions inter alia that they shall surrender their original passport before the jurisdiction

Magistrate and if they are not having passport file an affidavit regarding the same and they shall not leave India without getting prior permission of the learned Chief Judicial Magistrate. It is seen from the report that the investigation is over and final report has been filed only in respect of the first accused Badarul Muneer alone and others were deleted from the array of accused and the case was taken on file as CC.No.891/2014 on the file of the Chief Judicial Magistrate Court, Kasaragod. Since, the present petitioners are not accused, their passport need not be retained in court. So, if they file an application before the court below for that purpose, the court below is directed to pass orders releasing the passport to them, within two days from the date of filing of their application, after hearing the Assistant Public Prosecutor of that court.

With the above direction and observation, the petition is disposed of. Office is directed to communicate this order to the concerned court immediately by fax.

Sd/-
K.RAMAKRISHNAN, JUDGE

R.AV

//True Copy//

PA to Judge