

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

Crl.MC.No. 3462 of 2015 ()

(CRMC.NO. 1240/2015 OF SESSIONS COURT, THRISSUR DATED 05-06-2015)

PETITIONER :

**ANURAJ, S/O.RAJAN,AGED 32 YEARS,
VALAVUPARAMBIL HOUSE, VARANTHARAPPILLY,
PALLIKKUNNU NOORKULAM, THRISSUR DISTRICT.**

**BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SMT.MEGHA K.XAVIER**

RESPONDENT :

**STATE OF KERALA,
REPRESENTING SUB INSPECTOR OF POLICE,
VARANTHARAPPILLY POLICE STATION, THRISSUR,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A1 : TRUE COPY OF ORDER DATED 5-6-2015 IN CRL.M.C.NO.1240/15 OF
SESSIONS COURT, THRISSUR.**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Dated this the 10th day of June, 2015.

ORDER

The prayer in this Criminal Miscellaneous Case instituted under Sec. 482 Cr.P.C seeking invocation of this Court's inherent powers thereunder is for a direction to lift the impugned condition No.(i) of Annexure-A1 bail order dated 5.6.2015 in Crl.M.C.No.1240/2015 issued by the Sessions Court, Thrissur insisting to make cash deposit of Rs.50,000/- as a bail condition therein. The petitioner contends that it has been consistently held by this Court and the Apex Court in various decisions as in Sumit Mehta v. State of NCT of Delhi reported in 2013 (4) KLT SN 91 (C.No. 89) SC that while granting anticipatory bail the court should impose only condition which is just and fair, reasonable, acceptable and permissible in the circumstances and effective for the pragmatic sense and it should not amount to insistence that will defeat the very order of the grant of bail.

2. Heard Sri.C.A.Chacko, learned counsel for the petitioner and the learned Public Prosecutor appearing for the State of Kerala.

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3. It has been held by the Apex Court in the case Sumit Mehta v. State of NCT of Delhi reported in 2013 (4) KLT SN 91 (C.No. 89) SC that while granting anticipatory bail the court should only impose condition which is just, fair, reasonable, acceptable and permissible in the circumstances and effective for the pragmatic sense and it should not amount to insistence that will defeat the very order of the grant of bail. In the instant case, the petitioner is the first accused in Crime No.373/2015 of Varantharappilly Police Station registered for offences under Sec.427 r/w 34 IPC and Se. 3(2)(e) of the Prevention of Destruction of Public Property Act. The brief of the allegation is that due to enmity in cancellation of bus strike scheduled on 22.5.2015, the accused person destroyed the glasses of a stage carriage bus parked in the workshop and thereby caused loss of Rs.60,000/-. The Sessions Court, Thrissur as per Annexure-A1 order rendered on 5.6.2015 in Crl.M.C.No.1240/2015, arising out of Crime No.373/2015 of Varantharappilly Police Station had ordered grant of anticipatory bail to the petitioner. The court specifically noted that the learned Public Prosecutor has no serious objection in the granting of pre-arrest bail prayed for by the petitioner. However, the Sessions Court has imposed

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following four conditions for grant of pre-arrest bail which reads as follows:

- i) The petitioner shall deposit an amount of Rs.50,000/- before the Judicial First Class Magistrate's Court, Irinjalakuda and produce the receipt at the time of surrender before the Sub Inspector of Police, Varantharappilly.
- ii) The petitioner shall report before the Investigating Officer on every Monday between 9:00 a.m. and 11:00 a.m for two months and thereafter, as and when required by the Investigating officer in writing to do so.
- iii) The petitioner shall not intimidate or influence the witnesses or in any way tamper with the investigation.
- iv) The petitioner shall not get involved in any offence during the pendency of this case."

4. It has been held in the case Syamkumar v. State of Kerala reported in 2010 (4) KLT 405 that the impugned bail conditions therein insisting that the accused therein should produce solvency certificate of the sureties and a further condition that the accused should also make cash security deposit of Rs.20,000/- etc, are not proper and hence had deleted the said conditions. It has been held in several rulings of this Court that the impugned condition like the one herein insisting to produce title deeds of the sureties and retain them in court till examination under Sec.313 Cr.P.C is not sustainable in law and

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accordingly set aside the said impugned conditions. In the light of these principles of this Court as well as the Apex Court, this Court is of the considered opinion that in the facts and circumstances of this case the insistence s per impugned condition No.(i) in Annexure-A1 bail order that the petitioner should deposit cash amount of Rs.50,000/- before the court below is not proper and fair and accordingly the said condition is hereby ordered to be deleted. All other conditions in Annexure-A1 anticipatory bail order will remain unaltered.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-