

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

Crl.MC.No. 3607 of 2015

CMP 2808/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM

CRIME NO. 34/2015 OF VENGARA POLICE STATION, MALAPPURAM
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PETITIONER(S):

**YASIR,
S/O. ALAVI, KALLANKADAN HOUSE, POTTIKKALLU,
MATTATHOOR P.O., OTHUKKUNGAL, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENT(S)/STATE & COMPLAINANTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.**
- 2. THE SUB INSPECTOR OF POLICE,
VENGARA POLICE STATION, MALAPPURAM DISTRICT,
PIN - 673 640.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
23-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 3607 of 2015

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: TRUE COPY OF THE ORDER PASSED BY THE J.F.C.M., MALAPPURAM
IN C.M.P. NO. 2808/15 DATED 16.5.2015.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C No.3607 of 2015

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Dated this the 23rd day of June, 2015

O R D E R

The order under challenge is Annexure A rendered on 16.5.2015 on C.M.P No.2808/2015 in Crime No.34/2015 of Vengara Police station. The limited prayer of the petitioner is that the impugned condition No.3 of Anx-A order may be modified and substituted by the direction that the petitioner shall furnish security by way of immovable property for the value of Rs.35,000/- without insisting for original title deed, as ordered by this Court in the case as in ***Madhu vs. State of Kerala [2014 (4) KLT Suppl. 100: 2014 (1) KLJ 821]***. The legal position that covers the field is the one envisaged by ***Shan v. State of Kerala [2010(3) KLT 413]***, wherein it has been held that in similar cases arising under the offences under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001, the interim release of the vehicle could be made on furnishing cash security for 30% of the value of the vehicle

assessed and on furnishing immovable property security for the balance 70% of the value of the vehicle. It has been held by this court in ***Madhu vs. State of Kerala [2014 (4) KLT S 100]***, that the insistence by Magistrate to retain original title deeds of sureties while granting bail is unsustainable. by way of immovable property for 70% of the value of the vehicle assessed in such cases, it is not necessary to insist for production of original title deeds. In the circumstances, the impugned condition No.3 insisting that the petitioner shall produce bank guarantee for Rs. 35,000/- is modified by substituting the same with the direction that the petitioner shall produce security by way of immovable property, not less than Rs.35,000/- by producing certified copy of the such title deeds concerned. The petitioner shall also swear to an affidavit before the court below that he will not alienate, transfer or encumber the property covered by the original of the title deed in any manner during the pendency of such orders for interim release, except with the permission of the Court below.

With these observations and directions, this Crl.M.C is disposed.

sd/-

sab

ALEXANDER THOMAS, JUDGE

