

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

Crl.MC.No. 3825 of 2015 ()

CRIME NO. 1057/2015 OF ANCHAL POLICE STATION, ANCHAL, KOLLAM DISTRICT

PETITIONER/ACCUSED :

**AJIMOL RAJAN, AGED 37,
D/O.KUNJAMMA ABRAHAMM,
APPACOTTU PUTHEN VEETIL
ARIPLACHY P.O., MAVILA, ANCHAL
KOLLAM DISTRICT.**

BY ADV. SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENTS/STATE & DEFACTO COMPLAINANT :

- 1. STATE OF KERALA
REP. BY SUB INSPECTOR OF POLICE,
ANCHAL POLICE STATION (CRIME NO.1057/2015)
ANCHAL, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SUPERINTENDENT OF POLICE (RURAL),
KOTTARAKKARA, KOLLAM DISTRICT-691024.**
- 3. SURESH,
S/O.DAMODHARAN, AGED 41, AJEESH BHAVAN
VAKKAM MUKKU-CHORAKULAM, THAZHAMEL MURI, ANCHAL
KOLLAM DISTRICT-691 306.**

R1 & R2 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...2/-

Crl.MC.No. 3825 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE-A1 A TRUE COPY OF THE FIR IN CRIME NO.1057/2015 OF ANCHAL
POLICE STATION, ANCHAL DT.13-06-2015.**
- ANNEXURE-A2 A TRUE COPY OF THE FI STATEMENT OF THE 3RD
RESPONDENT DT.13-06-2015.**
- ANNEXURE-A3 A TRUE COPY OF THE INTERIM ORDER DT.30-12-2009 IN CMP
NO.11463/2009 PASSED BY THE HON'BLE JUDICIAL FIRST
CLASS MAGISTRATE COURT-I, PUNALUR.**
- ANNEXURE-A4 A TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DT.16-6-2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C No.3825 of 2015

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Dated this the 25th day of June, 2015

O R D E R

The limited prayer made by the counsel for the petitioner on behalf of the petitioner herein is that appropriate directions may be issued by this Court to direct the jurisdictional Magistrate Court concerned to consider the bail application of the petitioner on the same day as appearance, on merits and in accordance with law and in the light of legal principles laid down in the case shanu v. State of Kerala (2000 (3) KLT 452). The petitioner is the sole accused in the impugned Anx.A-1 Crime No. 1057 of 2015 of Anchal Police Station for offences under Secs. 294(b), 427 of the I.P.C. and Sec.3 (1)(10) of the SC & ST (Prevention of Atrocities) Act, 1989. It is pointed out that the learned counsel for the petitioner that this Court in the case shanu v. State of Kerala held in paragraph 9 to 11 thereof as follows:

9. In the above decision this Court has held that even though offence punishable under S. 307 of IPC., exclusively triable by the Sessions Court was also alleged, the Magistrate's Court has got jurisdiction to grant bail under S. 437 (1) of the Cr.P.C. sine the offence is not punishable with death or imprisonment for life in the alternative.

10. As already noted, the 15 offences enumerated under sub-s. (1) of S.3 of the S.C and S.T (Prevention of Atrocities) Act are punishable with maximum imprisonment of five years and with fine, though the offences are triable by the Special Court, which is the Sessions Court. Therefore, applying the principles enunciated in the decisions of this Court referred to above, it is clear that the Judicial First Class Magistrate's Court has got jurisdiction to grant bail to the persons accused of the offence punishable under any of the sub-cl. (i) to (xv) of sub-s. (1) of S.3 of the Act.

11. In this case, the offence alleged against the petitioners is punishable under S.324 of I.P.C. and S. 3(1)(x) of the S.C. and S.T. (Prevention of Atrocities) Act. Therefore, it follows that the Judicial First Class Magistrate's Court has got jurisdiction to grant bail to the accused under S. 437 (1) of the Cr.P.C irrespective of the fact that the case is triable by the Special Court, which is the Court of Session. Hence the learned Magistrate is directed to enlarge the petitioners on bail on appropriate conditions he deems necessary, in case the petitioners surrendered or arrested and produced before the court and moved for bail.

2. Heard. Sri. R. Krishnakumar, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent, State of Kerala

3. Considering the totality of the facts and circumstances of this case, it is ordered in the interest of justice that in case the petitioner voluntarily appears before the Jurisdictional Magistrate concerned without any further delay and submit necessary application for grant of bail, then the learned Magistrate shall consider such application on the same day, on merits and in accordance with the facts and circumstances of the case and in the light of legal principles

laid down by this Court shanu v. State of Kerala as quoted above. The petitioner will serve advance notice of his bail application to the Public Prosecutor concerned attached to the Jurisdictional Magistrate Court concerned at least 24 hours prior to such appearance before the learned Magistrate. It is further ordered that in case the petitioner does not voluntarily appear before the Jurisdictional Magistrate concerned within a period of 10 days from today, then the directions issued herein above shall automatically stand vacated.

Accordingly, this Crl.M.C stands disposed of.

sd/-

sab

ALEXANDER THOMAS, JUDGE