

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

Crl.MC.No. 5343 of 2015 ()

CRIME NO. 1094/2015 OF KALADY POLICE STATION , ERNAKULAM DISTRICT

PETITIONER/SOLE ACCUSED:-

**RAKESH, AGED 29 YEARS,
S/O.RAMAKRISHNAN, KONATHUKUDI HOUSE,
PARAPURAM, KANJOOR, KIZHAKUMBHAGOM VILLAGE,
ALUVA TALUK, ERNAKULAM DISTRICT.**

BY ADV. SRI.MANSOOR.B.H.

RESPONDENT/STATE/COMPLAINANT:-

**STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
(THROUGH STATION HOUSE OFFICER,
KALADY POLICE STATION, ERNAKULAM DIST).**

BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 5343 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A. CERTIFIED COPY OF THE F.I.R IN CRIME NO.1094/2015 OF KALADY
POLICE STATION.**

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

Crl.M.C.No.5343 Of 2015

Dated this the 13th day of August, 2015.

ORDER

The prayer in this Crl.M.C is as follows:

“.....to direct to the investigating officer in Crime No:1094/2015 of Kalady Police Station to follow the dictum laid down by the Hon'ble Apex Court in Arnesh Kumar V/s State of Bihar (2014) 8 SCC 273, while conducting investigation in the above crime and to issue under Sec 41 A Cr.P.C, if his appearance is required for the purpose of investigation.”

2. It is pointed out by the learned counsel for the petitioner that this Court in similar case as rendered in final order dated 16.7.2015 in Cr.M.C.No.4423/2015 whereby it was ordered in paragraph 4 thereof which reads as follows:

4. Accordingly, it is ordered in the interest of justice that it is for the petitioner to appear for the Investigating Officer in Crime No.121/2015 of Aluva West Police Station, Ernakulam District and make available for interrogation by the said Officer investigating the crime without any further delay. The petitioner may appear before the Investigating Officer concerned, at 10.00 A.M on 06-08-2015 and the Investigating Officer shall question the petitioner. The petitioner shall fully co-operate with the interrogation and make available all necessary documents that may be relevant for the present purpose to the perusal of the Investigating Officer. If the interrogation process is not completed on that day, the Investigating Officer will be at liberty to direct the petitioner to appear on the next day or any day immediately thereafter and the petitioner shall co-operate with such further interrogation. After this interrogation process is over, the petitioner

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should be produced before the jurisdictional Magistrate and then given necessary opportunity to ensure that he is represented through counsel before the learned Magistrate and petitioner should also give opportunity to move necessary application for grant of bail before the learned Magistrate. The learned Magistrate thereupon will consider the said bail application on the day itself and after hearing the petitioner's counsel and the learned Public Prosecutor appearing on behalf of the Investigating Officer concerned, shall pass appropriate orders thereon in light of legal principles laid down by the Apex Court in *Arneshkumar V. State of Bihar* reported in 2014 (8) SCC 273.

In tune with the direction given by this Court in paragraph 4 of the order dated 16.7.2015 in Crl.M.C.No.4423/2015 as well as the directives of the Apex Court in *Arnesh Kumar v. State of Bihar* reported in 2014 (8) SCC 273 it is ordered in the interest of justice that it is for the petitioner to appear for the Investigating Officer in Crime No.1094/2015 of Kalady Police Station, Ernakulam District and make available for interrogation by the said Officer investigating the crime without any further delay. The petitioner may appear before the Investigating Officer concerned, at 10.00 A.M on 07-09-2015 and the Investigating Officer shall question the petitioner. The petitioner shall fully co-operate with the interrogation and make available all necessary documents that may be relevant for the present purpose to the perusal of the Investigating Officer. If the interrogation process is not completed on that day, the Investigating Officer will be at liberty to

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direct the petitioner to appear on the next day or any day immediately thereafter and the petitioner shall co-operate with such further interrogation. After this interrogation process is over, the petitioner should be produced before the jurisdictional Magistrate (Judicial First Class Magistrate Court, Kalady) and then given necessary opportunity to ensure that he is represented through counsel before the learned Magistrate and petitioner should also be given opportunity to move necessary application for grant of bail before the learned Magistrate. The learned Magistrate thereupon will consider the said bail application on the day itself and after hearing the petitioner's counsel and the learned Public Prosecutor appearing on behalf of the Investigating Officer concerned, shall pass appropriate orders thereon in light of legal principles laid down by the Apex Court in Arnesh Kumar V. State of Bihar reported in 2014 (8) SCC 273.

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

ALEXANDER THOMAS,
Judge.

bkn/-