

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 25TH DAY OF AUGUST 2015/3RD BHADRA, 1937

Crl.MC.No. 5823 of 2015 ()

**-----
CRL.MC 1753/2015 OF PRINCIPAL SESSIONS COURT, THRISSUR DATED 19-08-2015
CRIME NO. 191/2015 OF CHERUTHURUTHY POLICE STATION, TRISSUR
-----**

PETITIONER/SOLE ACCUSED :

**-----
SAJITH BALAKRISHNAN
AGED 21, S/O. SATHEESAN, CHETTUTI
KANJIRAKODE VILLAGE DESOM
THRISSUR DISTRICT.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT/THE STATE OF KERALA :

**-----
THE STATE OF KERALA,
THROUGH THE SUB INSPECTOR OF POLICE
CHERUTHURUTHY POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM – 682 031.**

BY PUBLIC PROSECUTOR SRI. R. RANJITH

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 25-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

Crl.MC.No. 5823 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE I : COPY OF THE ORDER PASSED BY THE PRINCIPAL SESSIONS COURT, THRISSUR IN CRL.MC NO. 1753 OF 2015 DATED 19.8.2015.

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

K.ABRAHAM MATHEW, J.

=====

Crl.M.C.No.5823 of 2015

=====

Dated this the 25th Day of August, 2015

ORDER

The petitioner is the accused in Crime No.191 of 2015 of the Cheruthuruthy Police Station registered originally under Section 174 Cr.P.C. The investigation revealed commission of the offence by the petitioner under Section 306 of the Indian Penal Code, which is the prosecution case. He filed an application under Section 439 Cr.P.C. for bail, as he was arrested and remanded to judicial custody. On 19.8.2015 by Annexure- I order, the learned Sessions Judge granted him bail, but directed that he shall be released only on 31.8.2015. This is challenged in this Crl.M.C.

2. Heard.

3. The simple question that arises for consideration is whether the Criminal Court can grant bail to an accused but at the same time direct that he shall be released only on a future date. The law is that if an accused is entitled to bail, it shall be granted to him forthwith, and if he is not, it shall be denied to him. It is illegal for the Court to grant bail

and direct that the accused shall be released only on a future date. The question came up before the Supreme Court in **Dasharath Pandey and others v. State of Bihar [1995 Supp (3) SCC 551]**. The apex court held that such direction is illegal. This is what the Court has observed:

If the accused is due for bail, then he should get it then and there. In case he is not due for bail instantly then the petition should be dismissed suggesting that the prayer of bail be reiterated at a future date."

So, there is no doubt that the direction in the impugned order that the petitioner shall be enlarged only on 31.8.2015 is illegal.

In the result, the Crl.M.C.is allowed. The petitioner shall be released immediately if he complies with the relevant conditions in the order passed by the learned Sessions Judge.

Sd/-
K.ABRAHAM MATHEW
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE