

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937**

**Crl.MC.No. 6029 of 2015 ()**

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CC 334/2006 of JUDICIAL FIRST CLASS MAGISTRATE COURT,ALATHUR  
CRIME NO. 136/2005 OF NENMARA POLICE STATION , PALAKKAD DISTRICT  
=====**

**PETITIONER/ACCUSED NO. 1:**

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MAHESH GOPI, AGED 49 YEARS  
S/O KRISHNAN GOPI, A/103, PARK ROYAL  
MADAN MALVIYA ROAD, NEAR MTNL  
TELEPHONEEXCHANGE  
MULUND(W), MUMBAI, MAHARASHTRA**

**BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)**

**RESPONDENTS/DEFECTO COMPLAINANT & STATE:**

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STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM**

**BY PUBLIC PROSECUTOR SMT. REMA R.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-09-2015, THE  
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**SD**

P. UBAID, J.

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Crl.M.C.No.6029 of 2015  
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Dated this the 9<sup>th</sup> day of September, 2015

O R D E R

The petitioner herein is the accused No.1 in C.C.No.334/2006 of the Judicial First Class Magistrate Court, Alathur. On the apprehension of arrest and remand to judicial custody in execution of a warrant of arrest issued from the trial court he seeks orders from this Court under Section 482 of the Code of Criminal Procedure directing the court below to release him on bail. Of course, the relief as sought by the petitioner cannot be granted by this Court under Section 482 of the Code of Criminal Procedure. The learned Magistrate, who has issued warrant of arrest for proper reasons, will have to consider the request to release him on bail. It is for the learned Magistrate to decide whether bail could be granted to the petitioner. The petitioner will have to surrender before the trial court and make application for bail. Anyway, let appropriate decision regarding bail be taken by the learned Magistrate. However, a direction can be made to consider and dispose of the application for bail on the date of surrender itself. The petitioner's grievance that he

happened to be absent during the proceeding only because he went abroad in search of some job, will be judiciously considered by the learned Magistrate in taking decision in the matter of bail. I do not think that the learned Magistrate will mechanically remand him to custody or reject the request.

In the result, this petition is disposed of with direction to the court below that in case the petitioner makes application for bail on surrender in C.C.No.334/2006, the same shall be judiciously considered and decided on the date of surrender itself.

Sd/-

P. UBAID, JUDGE

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