

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

Crl.MC.No. 6219 of 2015 ()

**-----
CC 71/2011 of JUDICIAL FIRST CLASS MAGISTRATE CURT-I, THAMARASSERY
CRIME NO. 380/2011 OF KODUVALLY POLICE STATION , KOZHIKODE DISTRICT
=====**

PETITIONER/2ND ACCUSED:

**-----
MOOSAKUTTY, AGED 75 YEARS
S/O. AMMEDKUTTY, RESIDING AT
ELADATHUPOYIL HOUSE
PANNIKOTTOOR P.O. KODUVALLY
KOZHIKODE**

BY ADV. SRI.A.CHANDRA BABU

RESPONDENTS/STATE:

**-----
STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM, KOCHI-31**

BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

CRL.M.C.6219/2015

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE-I COPY OF THE FIRST INFORMATION REPORT DATED 15.11.2011

RESPONDENT'S EXHIBITS

NIL

TRUE COPY

PA. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6219 of 2015

Dated this the 17th day of September, 2015

O R D E R

The petitioner herein is the 2nd accused in C.C.No.71/2011 of the Judicial First Class Magistrate Court-I, Thamarassery. On the apprehension of arrest and remand to judicial custody in execution of a warrant of arrest issued by the learned Magistrate he seeks orders from this Court under Section 482 of the Code of Criminal Procedure directing the court below to release him on bail. 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 for 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 learned Magistrate and make application for bail. He will have to explain the reason for his absence in court. 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. I do not think that the learned Magistrate will mechanically remand him

to custody, without hearing his grievance, that he could not appear in court on the posting date due to chest pain, and that his counsel could not make prompt application. It is submitted that all the offences were bailable on the date of commission of the alleged offence. It will also be considered by the learned Magistrate while taking decision on the application for bail.

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.71/2011 the same shall be judiciously considered and decided, on the date of surrender itself.

Sd/-

P. UBAID, JUDGE

sd