

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

Crl.MC.No. 6540 of 2015

**CRIME NO.1004/2014 OF NEDUMANGADU POLICE STATION,
THIRUVANANTHAPURAM**

PETITIONER :-

**ARUNKUMAR, ADVOCATE, AGED 43 YEARS,
S/O.SADASIVAN NAIR, "AJANTHA", MUKKOLAKKAL,
THEKKUMKARA MURI, KARIPPUR VILLAGE,
NEDUMANGADU.**

**BY ADVS.SRI.S.RAJEEV
ADV.SRI.K.K.DHEERENDRAKRISHNAN**

RESPONDENT :-

**STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.
(CRIME NO. 1004/2014 OF NEDUMANGADU POLICE STATION)
(CP NO.26/2015 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, NEDUMANGADU)**

R BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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P.UBAID, J.

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Crl.M.C.No.6540 of 2015
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Dated this the 7th day of October, 2015

ORDER

The petitioner herein is the sole accused in C.P.No.26 of 2015 of the Judicial First Class Magistrate Court-II, Nedumangadu. On the apprehension of arrest in execution of warrant of arrest issued from the Court, he seeks a direction from this Court under Section 482 Cr.P.C. to the Court below to recall the warrant of arrest, and to release him on bail on surrender. An order as sought by the petitioner cannot be granted by this Court under Section 482 Cr.P.C. The petitioner will have to surrender before the learned Magistrate, and make application for bail under Section 437 Cr.P.C. Though the offence under Section 3(1)(xi) of the SC/ST Act is involved in the case, the learned Magistrate can entertain application for bail, and take appropriate decision. I do not think that the learned Magistrate will mechanically remand the petitioner to judicial custody. The whole materials will have been perused and

examined, and appropriate decision regarding bail can be taken by the learned Magistrate. Though, pre-arrest bail is barred under Section 18 of the SC/ST Act the learned Magistrate having jurisdiction is well competent to grant bail under Section 437 Cr.P.C. The police has submitted final report in this case, and it is now pending as committal proceeding. Let the learned Magistrate consider the request for bail, and take appropriate decision, keeping in mind, the observations made above.

In the result, this petition is disposed of with direction to the Court below that in case the petitioner made an application for bail on surrender in C.P.No.26 of 2015, the same shall be judiciously considered on the same day, and appropriate decision shall be taken. The petitioner is granted time for one week to surrender before the learned Magistrate, and make application for bail. During this period, enforcement of the warrant of arrest will stand suspended.

Sd/-
P.UBAID
JUDGE

rkj

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P.A. TO JUDGE