

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

Crl.MC.No. 6598 of 2015 ()

**CRL.M.P.NO. 1319/2015 IN SC 473/15 ON THE FILE OF THE COURT OF THE
ADDITIONAL DISTRICT SESSIONS JUDGE 1, MANJERI.**

PETITIONER:

**SAMEER @ BABU, S/O. SUBAIR PARAKADAVATH (H), NARANATH,
PUZHAKKATTIRI AMSOM, RAMAPURAM, MALAPPURAM.**

**BY ADVS.SRI.C.C.ANOOP
SRI.MAHBOOB ARUVEETIL**

RESPONDENTS:

- 1. THE SUB INSPECTOR OF POLICE, MANKADA POLICE STATION,
MALAPPURAM DISTRICT – 679 357.**
- 2. STATE OF KERALA, (RESPONDENTS 1 & 2), REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

R BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURE:

ANNEXURE-A1:- A TRUE PHOTOCOPY OF THE PETITION SUBMITTED BEFORE THE INVESTIGATING OFFICER BY THE DEFACTO COMPLAINANT IN S.C.473/2015 ON THE FILE OF THE COURT OF DISTRICT AND SESSIONS JUDGE-I, MANJERI, DATED 24-2-2015.

ANNEXURE-A2:- A TRUE PHOTOCOPY OF THE ORDER PASSED BY JFCM II PERINTHALMANNA DATED 4.9.2015 IN C.M.P.2866/2015 IN C.P 25/15.

ANNEXURE-A3:- A TRUE COPY OF THE ORDER PASSED BY THE COURT OF THE ADDITIONAL DISTRICT SESSIONS JUDGE, MAJERI DATED IN 30.9.2015 CRL.M.P.1319/2015 IN SC 473/15.

RESPONDENT(S)'ANNEXURE: NIL

/TRUE COPY/

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.6598 of 2015
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Dated this the 16th day of October, 2015

ORDER

The petitioner herein is the sole accused in S.C.No.473 of 2015 of the Court of Session, Manjeri. As a condition for bail granted by the Court of Session, he has surrendered his passport in Court. He made an application before the learned First Additional Sessions Judge, Manjeri as CMP No.1319 of 2015 to release the passport. The learned Additional Sessions Judge dismissed the said application by order dated 30.09.2015 on the ground that the petitioner will go abroad, if the passport is released to him. The said order is under challenge in this petition brought under Section 482 Cr.P.C.

2. The petitioner relies on Annexure -1 copy of the receipt issued from the police station, which shows that the victim of offence in this case has submitted a request before the police in writing, to close the whole prosecution on the

ground that she has no grievance or complaint. Ofcourse, the police could not have acted on the said request because, the crime involves a sessions offence, and now it is before the Court of Session. Anyway, I feel that the petitioner has a genuine grievance. It is not known when the case will come up for trial in a situation where the pendency in the court below is huge. Time and again this Court has made it clear that while imposing conditions for bail, Courts shall maintain a realistic approach. Conditions imposed by the Courts shall not stand in the way of the accused seeking employment here or elsewhere. It would be inappropriate to think that the accused should wait for years to seek employment somewhere, till conclusion of trial. Here, it is submitted that the petitioner and the victim have now come to terms, and that is why she made a request in writing to the police to close the whole prosecution. I feel it appropriate to permit the petitioner to go abroad for a period of 15 months. Before the expiry of the 15 months period, he will have to surrender his passport, and if he requires the passport again, he can make necessary application before the trial court. On such application, considering the stage of the case, and other requirements, the

trial court can take appropriate decision. Accordingly, this petition is allowed, directing the court below to release the petitioner's passport for a period of 15 months from this date. Before the expiry of the said period of 15 months, the petitioner shall come back, and surrender the passport before the trial court. If he requires it again, he can make necessary application before the trial court. As observed earlier, the trial court can take appropriate decision, when such a request is made.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE