

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 31ST OCTOBER 2006 / 9TH KARTHIKA 1928

Bail Appl..No. 6376 of 2006()

Crime No. 321/2004 of Kalady Police Station

PETITIONER/ACCUSED NO.4:

GOPAKUMAR, S/O. SOMAN PILLAI,
PANAVILA HOUSE, MANJAPRA, ERNAKULAM DISTRICT.

BY ADV. SRI.A.C.DEVY

RESPONDENT/RESPONDENT:

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTORSRI. P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 31/10/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

J.M.JAMES, J.

B.A. 6376/2006

DATED THIS THE 31ST DAY OF OCTOBER, 2006

O R D E R

The petitioner is the fourth accused, in crime No.321/2004 of Kalady Police Station, the offence alleged against ten accused being under Sections 379 and 411 IPC read with Section 34 IPC.

2. The prosecution alleges that the accused Nos. 1 to 9 had trespassed into the ground floor of the incomplete building, which is under construction, and committed theft of certain carvings and handicrafts fitted as well as furniture kept in the building. The accused had sold the same to the tenth accused. Accused 1 to 3, 5, 7, 8 and 10 were arrested. The disclosure statements of those accused had been recorded. The role of the fourth accused, though denied by the learned counsel for the petitioner, is ascertained by the prosecution, basing on the statements and records available in the C.D file. It is also submitted by the prosecution that other accused are absconding. Now the petitioner is before this Court under Section 438 Cr.P.C.

3. The petitioner was before this Court through B.A.No.7126/2004 for the similar relief. It was seen withdrawn on 9.2.2005. However, the petitioner is not so far arrested, as he was absconding, submits the prosecution.

4. After hearing both sides and considering the materials that are placed before me, I direct the petitioner to surrender before the Investigating Officer of Kalady Police Station, who is Investigating crime No.321/2004, on 6.11.2006 at 10.00 a.m.

5. The Investigating Officer shall interrogate the petitioner and thereafter, produce him before the Court below, as per the law.

6. The learned Magistrate shall hear both sides and pass appropriate orders on merit, considering the fact, as submitted by the learned counsel before this Court, that the other accused had been released by the learned Magistrate, on the same day of their production.

The application is disposed of as above.

**J.M.JAMES
JUDGE**

mrCS