

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 31ST MAY 2011 / 10TH JYAISHTA 1933

Bail Appl..No. 3872 of 2011()

CRIME NO.364/2010 OF KOOTHATTUKULAM POLICE STATION, ERNAKULAM DIST.
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PETITIONERS:

- 1. JOY VARGHESE, AGED 36, S/O. VARGHESE,
WORKING AS COLLECTION HEAD,
M/S. MAGMA FINCORP LTD., 1ST FLOOR,
JAIN TOWERS, VYTTILA P.O.**
- 2. NOUFAL HUSSAIN, AGED 33, S/O. HUSSAIN,
WORKING AS EXECUTIVE, M/S. MAGMA FINCORP LTD.,
1ST FLOOR, JAIN TOWERS, VYTTILA P.O.**

BY ADV. SRI.VARGHESE C.KURIAKOSE

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
KOOTHATTUKULAM POLICE STATION,
KOOTHATTUKULAM, PIN-682 365.**

R1 & R2 BY PUBLIC PROSECUTOR MR.M.R. VENUGOPAL.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 31/05/2011, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs

V. RAMKUMAR, J.

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B.A. No. 3872 of 2011

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Dated this the 31st day of May, 2011.

ORDER

Petitioners who are accused Nos. 1 and 2 in Crime No. 364 of 2010 of Koothattukulam Police Station for offences punishable under Sections 120B, 141, 149, 379 and 395 I.P.C., seek anticipatory bail.

2. The learned Public Prosecutor opposed the application.

3. After evaluating the factors and parameters which are to be taken into consideration under paragraph 112 of the verdict of the Apex Court in **Siddharam Satlingappa Mhetre v. State of Maharashtra and Others (2011) 1 SCC 694,** I am of the view that anticipatory bail cannot be granted in a case of this nature, since the investigating officer has not had the advantage of interrogating the petitioners. Accordingly, the petitioners are directed to surrender before the investigating officer on **13.06.2011 or on 14.06.2011** for the purpose of interrogation and recovery of incriminating material, if any.

In case the petitioners are arrested by the Investigating Officer before interrogation, the petitioners shall thereafter be produced before the Magistrate or the Court concerned and permitted to file an application for regular bail. In case the interrogation of the petitioners is without arresting them, the petitioners shall thereafter appear before the Magistrate or the Court concerned **on the same day or on the next day and apply for regular bail.** The Magistrate or the Court on being satisfied that the petitioners have been interrogated by the police shall, after hearing the prosecution as well, release the petitioners on bail.

4. In case the petitioners while surrendering before the Investigating Officer have deprived the investigating officer sufficient time for interrogation, the officer shall complete the interrogation even if it is beyond the time limit fixed as above and submit a report to that effect to the Magistrate or the Court concerned. Likewise, the Magistrate or the Court also will not be bound by the time limit fixed as above if sufficient time

was not available after the production or appearance of the petitioners .

5. The release of the petitioners shall be on each of the petitioners executing a bond for ₹15,000/- (Rupees fifteen thousand only) with two solvent sureties each for the like amount to the satisfaction of the Court concerned and subject to the following conditions:-

1. The petitioners shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays till the filing of the final report.

2. The petitioners shall not directly or indirectly make any inducement, threat or promise to any person who is acquainted with the facts of the case so as to dissuade him or her from disclosing any information to the Court or to the police or to any other person in authority.

3. The petitioners shall make themselves available for interrogation as and when required by the police at any time till the filing of the final report.

4. The petitioners shall not establish any contact with any of the witnesses or accused in the case.

5. The petitioners shall not influence or intimidate the prosecution witnesses or the victims nor shall they attempt to tamper with the evidence for the prosecution.

-:4:-

6. *The petitioners shall not commit any offence while on bail.*

7. *The petitioners shall notify to the Court their place of residence before executing the bail bond.*

8. *If the petitioners commit breach of any of the above conditions, the bail granted to them shall be liable to be cancelled.*

This petition is disposed of as above.

Dated this the 31st day of May, 2011.

sd/- **V.RAMKUMAR, JUDGE.**

rv

//True Copy//

P.A to Judge.