

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE N.K.BALAKRISHNAN**

**TUESDAY, THE 31ST DAY OF JULY 2012/9TH SRAVANA 1934**

**Bail Appl..No. 5193 of 2012 ()**

**CRIME NO.113/2011 OF ATHOLY POLICE STATION, KOZHIKODE DISTRICT**

**PETITIONERS/ACCUSED 6 & 7 :**

- 1. KIRAN GUPTA, AGED 49 YEARS,  
W/O.DANESH KUMAR GUPTA, JAWAHAR NAGAR COLONY,  
KOZHIKODE,**
- 2. DHRITUL GUPTA , AGED 20 YEARS,  
S/O.DANESH KUMAR GUPTA, JAWAHAR NAGAR COLONY,  
KOZHIKODE**

**BY ADVS.SRI.R.BINDU (SASTHAMANGALAM)  
SRI.PRASANTH M.P**

**RESPONDENTS/COMPLAINANT/STATE:**

- 1. SUB INSPECTOR OF POLICE, ATHOLI POLICE STATION,  
KOZHIKODE DISTRICT.**
- 2. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 & R2 BY PUBLIC PROSECUTOR SMT.JASMINE.V.H.**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 31-07-2012, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**sts**

**N. K. BALAKRISHNAN, J.**

**B. A. No. 5193 of 2012**

**Dated this the 31<sup>st</sup> day of July, 2012**

**ORDER**

Petitioners are accused Nos.6 and 7 in Crime No.113 of 2011 of Atholy Police Station, Kozhikode district. Offences alleged against them are under sections 406 and 420 r/w section 34 IPC. Apprehending arrest, this petition is filed for anticipatory bail.

2. Petitioners are the owner of two plots admeasuring 1.5 acres each. They sold those plots to the first accused. It is alleged that as the respecive vendors had kept the sale tax arrears due, proceedings were initiated to recover that amount, resorting to the provisions of the Revenue Recovery Act. That fact was stated to have been suppressed by the petitioners. First Information was given by the brother of the subsequent purchaser. It is also alleged that a portion of the property sold by the petitioners is actually a Government puramboku land.

3. Learned counsel for the petitioners submits that

the petitioners had absolute title to the said property. Any way, that is a matter to be adjudicated before the civil court as and when occasion arises. Learned counsel for the petitioners submits that the petitioners were not aware of the fact that proceedings were initiated under the Revenue Recovery Act for realization of the sales-tax arrears.

4. In any event, as there is a first charge on the property, if action has been taken under the Revenue Recovery Act, then the liability would run with the land, it is contended.

5. Considering all the aspects, the following directions are issued:

The petitioners shall surrender before the Investigating Officer within two weeks from today. After interrogation they shall be produced before the learned Magistrate. When applied for bail by the petitioners, the learned Magistrate can, considering the nature of the case, grant bail to them but on the following conditions:

a) The petitioners shall execute a bond for

Rs.25,000/- (rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. If in case the Magistrate has any doubt about the genuineness or correctness of the tax receipts produced by the sureties, the learned Magistrate can insist for production of the attested photo copies of the original title deeds of the sureties.

b) The petitioners shall make themselves available for interrogation by the Investigating Officer and they should appear before the Investigating Officer on all Mondays and Fridays between 9.30 AM to 11.30 AM until further orders.

c) The petitioners shall produce their original passports before the learned jurisdictional Magistrate. If they are not having any valid passport, they should file an affidavit regarding the same before the Magistrate.

d) The petitioners will also file an affidavit stating that they will abide by all the conditions as mentioned above and that they will not commit any offence similar to

the offence involved in this case and that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.

e) The petitioners shall not leave the State of Kerala without permission of the court.

f) The learned Magistrate will also ensure the identity of the sureties by insisting production of electoral photo identity cards/driving licence etc.

**N.K. BALAKRISHNAN, JUDGE**

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