

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

TUESDAY, THE 30TH DAY OF SEPTEMBER 2014/8TH ASWINA, 1936

Bail Appl..No. 7027 of 2014 ()

AGAINST THE ORDER IN CRMP 457/2014 of DISTRICT & SESSIONS COURT, ALAPPUZHA

AGAINST THE ORDER IN CRMP 1528/2014 of ADDL.DISTRICT & SESSIONS COURT – III,
ALAPPUZHA

CRIME NO. 217/2014 OF ALAPPUZHA NORTH POLICE STATION , ALAPPUZHA

PETITIONER(S)/PETITIONERS/ACCUSED NOS. 1 TO 3:

1. JAYAPRAKASH AGED 56 YEARS
S/O. THANKAPPAN, CHITTEZHATHU HOUSE, SOUTH ARYAD
ALAPPUZHA.
2. REMADEVI AGED 46 YEARS
W/O. JAYAPRAKASH, CHITTEZHATHU HOUSE, SOUTH ARYAD
ALAPPUZHA.
3. JITHIN
S/O. JAYAPRAKASH, CHITTEZHATHU HOUSE, SOUTH ARYAD
ALAPPUZHA.

BY ADV. SRI.B.PRAMOD

RESPONDENT(S)/RESPONDENT:

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

BY PUBLIC PROSECUTOR SRI. C.R. JAYAPRAKASH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30-09-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K. MOHANAN, J.

B.A. No. 7027 of 2014

Dated this the 30th day of September, 2014

ORDER

The petitioners who are accused Nos. 1 to 3 in Crime No. 217 of 2014 of Alappuzha Police Station, apprehends arrest in the above crime. Therefore, they preferred this application for anticipatory bail under Sec. 438 of Cr.P.C.

2. The prosecution allegation is that the first petitioner/accused promising job as “Administrative Assistant” in the Medical College Hospital, Alappuzha to the de facto complainant and accepting the above offer, the husband of the de facto complainant gave a sum of Rs.

2,80,000/- to the 3rd accused who is the son of accused Nos. 1 and 2. But, no job was arranged as offered by them . So, according to the prosecution, accused Nos. 1 to 3 have committed offences punishable under Section 420 read with Sec. 34 Indian Penal Code.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The learned counsel for the petitioners submitted a different story and pointed out that the de facto complainant and her husband are the real culprits. According to him, the husband of the de facto complainant offered employment visa for the 3rd petitioner/accused in abroad and towards the said purpose, petitioners gave a sum of Rs. 3 lakhs to the husband of the de facto complainant. But they failed to

arrange the job visa as offered by them. Consequently, in mediation, they agreed to re-pay the amount and accordingly, the husband of the de facto complainant paid a sum of Rs. 2,80,000/- to the accused herein through the account of accused No.3. It is also the submission of the learned counsel that the story now put forward by the de facto complainant is unbelievable and the petitioners are falsely implicated in the above crime.

5. On the other hand, the learned Public Prosecutor submitted that the petitioners had collected money from the de facto complainant and her husband, offering job to the de facto complainant and the amount was paid to the accused through the bank account of the de facto complainant and her husband. After the receipt of the money, according to the learned Public Prosecutor, the

accused resiled from their promise and thereby they have committed offences punishable under Sec. 420 read with Sec. 34 of Indian Penal Code.

5. I have carefully considered the avements made by the learned counsel for the petitioners as well as the learned Public Prosecutor.

6. Even if the prosecution allegation against the petitioners are admitted as correct, though the same are not believable for a prudent mind, as per the submission of the learned Public Prosecutor the entire money transaction between the accused and the de facto complainant and her husband were taken place through the bank accounts of the accused as well as the de facto complainant and her husband. If that be so, according to me, in order to complete the investigation, custodial

interrogation of the petitioners may not be necessary since, particularly, when the bank records are readily available which would show the money transaction. So, according to me, this petition can be allowed, however, on imposing stringent conditions.

In the result, this petition is allowed, and accordingly, there will be a direction that in the event of the arrest of the petitioners in Crime No.217/2014 of Alappuzha North Police Station, they shall be released on bail on each of them executing a bond for Rs. 50,000/- (Rupees fifty thousand only) with two solvent sureties, each for the like amount, to the satisfaction of the Investigating Officer on the following further conditions: –

- i) The 3rd petitioner/third accused shall report before the Investigating Officer on alternate Sundays between 10 a.m. and 11 a.m.
- ii) Petitioners 1 and 2 shall report before the

Investigating Officer as and when required by the police.

iii) *The 3rd petitioner shall surrender his passport, if any, before the jurisdictional Magistrate at the time of executing the bail bond and if he is not the passport holder, he will file an affidavit to that effect in the said Court. If the petitioner requires his passport, he can approach the concerned court for the release of the same and in case, such an application is filed, the trial Court or the jurisdictional Magistrate, as the case may be, is free to consider the same on merit and to pass appropriate orders, guided by the decision of this Court reported in **Asok Kumar v. State of Kerala [2009 (2) KLT 712]**, notwithstanding the above condition imposed by this Court.*

iv) Petitioners shall not tamper with the evidence and try to influence any witnesses.

v) Petitioners shall not interfere with the investigation.

Dated this the 30th day of September, 2014.

Sd/- V.K. MOHANAN, JUDGE.

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/truecopy/

P.S.ToJudge

