

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 31ST DAY OF JULY 2014/9TH SRAVANA, 1936

Crl.MC.No. 4263 of 2014

CC 604/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDRUG

PETITIONER/ACCUSED:

**SHAHEEB .T., AGED 35 YEARS,
S/O. MUHAMMED KUNHI, NELLIDUKAM HOUSE, PANAYIL.P.O.,
KASARAGOD DISTRICT.**

**BY ADVS.SRI.SAJEEV KUMAR K.GOPAL
SRI.R.HARISHANKAR**

RESPONDENT(S)/STATE/COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
BEKKAL POLICE STATION, BEKKAL,
KASARAGODE DISTRICT-671318.**

BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
31-07-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

AS

K. RAMAKRISHNAN, J.

Criminal M.C. No.4263 of 2014

Dated this the 31st day of July, 2014

O R D E R

This criminal miscellaneous case is filed by the petitioner, who is the accused in C.C. No.604/2014 on the file of the Judicial First Class Magistrate Court-II, Hosdurg, for issuing a direction to consider and dispose of his bail application under Section 482 of Code of Criminal Procedure (hereinafter called the 'Code').

2. It is alleged in the petition that, the petitioner has been arrayed as accused in C.C.604/2014 on the file of Judicial First Class Magistrate Court-II, Hosdurg, alleging commission of the offence under Rule 20 and 21 of the Minor Mineral Development Rules. After investigation, final report was filed. He is prepared to surrender, but he apprehends that, his bail application will not be considered and he will be remanded to custody. So the petitioner has no other remedy, except to approach this court, seeking the

following relief:

“It is most respectfully submitted that this Hon'ble Court may be pleased to direct Judicial First Class Magistrate Court-II, Hosdurg, to consider the bail application of the petitioner in C.C.No.604 of 2014 on the date of his surrender itself and release the petitioner on bail and further to keep in abeyance non-bailable warrant issued enabling the petitioner to surrender before the court below”.

3. Considering the nature of relief claimed in the petition, this court felt that, the petition can be disposed of at the admission stage itself, after hearing the learned counsel for the petitioner and the learned Public Prosecutor of that court.

4. The counsel for the petitioner submitted that, his apprehension is that, if he surrenders before the court, he is likely to be remanded without considering the bail application. Unless a direction is given from this court, normally the bail application will not be considered on the same date.

5. The application was opposed by the learned Public Prosecutor on the ground that, he has not appeared before the court so far.

6. It is an admitted fact that, the petitioner has been arrayed as accused in C.C.604/2014 on the file of the Judicial First Class Magistrate Court-II, Hosdurg, alleging offence under Rule 20 and 21 of the Minor Mineral Development Rules. It is also an admitted fact that, after investigation, final report was filed. Admittedly, the petitioner has not appeared before the court below and non-bailable warrant is pending against him. The apprehension of the petitioner that, if he surrenders, he will be remanded to custody and his bail application will not be considered, is without any basis and not genuine. Further this court has in several matters of this nature, time and again observed that, there is a duty cast on the judicial officers of the criminal court to consider and dispose of the bail applications, on the date of filing of the application itself, as far as possible, unless compelling circumstances warrant the postponement of the same to a future date. So in fact, there is no necessity to issue any specific direction as claimed in the petition. But however, considering the

apprehension raised in the petition, this court feels that, the petition can be disposed as follows:

If the petitioner surrenders before the Judicial First Class Magistrate Court-II, Hosdurg, and moves for recalling the warrant and release him on bail in C.C.604/2014, then the learned magistrate is directed to consider and dispose of those applications, as far as possible, on the same date, after hearing the Assistant Public Prosecutor of that court, in accordance with law.

With the above direction and observation, this criminal miscellaneous case is disposed of. Office is directed to communicate this order to the concerned court, immediately.

Sd/-
K. RAMAKRISHNAN, JUDGE

// True Copy //

P.A. to Judge

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