

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 29TH DAY OF JANUARY 2016/9TH MAGHA, 1937

Bail Appl..No. 7432 of 2015 ()

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CRIME NO.RC 9(A)/2015-CBI/COCHIN OF THE COURT OF SPECIAL JUDGE FOR
CBI CASES-III, ERNAKULAM.**

PETITIONER/3RD ACCUSED:

**RENY EAPEN, C.E.O.,
M/S. J.K. INTERNATIONAL MANPOWER
CONSULTANTS TOUR & TRAVELS,
ANNIE THAYYIL ROAD, ERNAKULAM, COCHIN.**

**BY SRI.K.RAMAKUMAR, SENIOR ADVOCATE.
ADVS. SRI.S.M.PRASANTH,
SRI.G.RENJITH,
SMT.ASHA BABU.**

RESPONDENTS/STATE & COMPLAINANT:

- 1. THE CENTRAL BUREAU OF INVESTIGATION,
KATHRIKADAVU, KOCHI - 682 017,
REPRESENTED BY ITS SUPERINTENDENT,
THROUGH THE STANDING COUNSEL OF THE CBI,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**
- 2. THE INSPECTOR OF POLICE,
CBI/ACB/COCHIN, KATHRIKADAVU,
KOCHI - 682 017.**

BY ADV. SRI.P.CHANDRASEKHARA PILLAI, SC, C.B.I.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28/01/2016, THE COURT ON 29/01/2016 PASSED THE
FOLLOWING:**

rs.

SUNIL THOMAS, J.

B.A. No. 7432 of 2015

Dated this the 29th day of January, 2016

O R D E R

Petitioner is the 3rd accused in Crime No.RC 9(A)/2015-CBI/Cochin of the Court of Special Judge for CBI Cases-III, Ernakulam for offences punishable under Sections 120B,420 IPC read with Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act 1988 and 24 of the Emigration Act,1983.

2. According to the prosecution, the petitioner herein and the second accused are the C.E.O. and the managing partner respectively of an agency authorised to recruit employees for overseas job under the Emigration Act, 1983. The first accused is the Protector of Emigrants under the Emigration Act. Allegation of the prosecution is that the firm of 2nd and 3rd accused had recruited several persons for overseas employment by collecting huge amounts from them in excess

of fee permitted under Rule 25 of the Rules framed under the Emigration Act. It was alleged that the first accused, who was statutorily bound to take action against such illegal activities, not only did not take any action, but connived with accused 2 and 3 on receipt of illegal gratification.

3. Learned senior counsel for the third accused contended that as far as the allegation set up against the petitioner was concerned, the only allegation that will survive was that they have charged excess amount over and above the permissible fee prescribed under Rule 25. It was contended that accused was authorized to recruit persons for overseas employment and the amount collected was a matter of record, for which a custodial interrogation was not warranted.

4. Heard learned senior counsel for the petitioner and the learned counsel appearing for the CBI.

5. Learned counsel for the CBI contended that the allegation is not merely confined to charging of excess amount by authorized recruiting agency, but the allegation was that a portion of the huge illegal amount collected by the agency was

being regularly shared with the first accused who was a public servant, legally bound to prevent such illegal activities. CBI alleged that during the period 2014 - 15, several persons were recruited by the firm of the second and third accused and collected around twenty lakhs of rupees from each candidate. First accused was aware of the clandestine activities of the second and third accused and had shared portion of the amount so collected.

6. The contention of the learned counsel for the petitioner was that since the petitioner was running an authorised recruitment agency, statutory records and registers are maintained which disclosed the amount collected, and hence custodial interrogation was not warranted. Materials collected through investigation revealed that huge amount in cash were taken at the instance of the 2nd and 3rd accused and given to the protector of Emigrants. The specific allegation of the CBI is that money was being collected illegally. Since the portion of the illegal gratification is stated to have changed hands in cash, evidently that may not be borne by records. Allegation against

the first accused is under the prevention of corruption and with respect to the remaining accused , there are allegations under Section 120B and Section 420 IPC. Since such clandestine activities, as alleged, are normally hatched and executed in secrecy, direct evidence may not be easily available. The allegation against the accused is very serious. The details of such activities, the volume and the nature of transaction, the period over which such activities had been carried on and the volume of the money so received, involvement of others, if any, are all matters which are within the exclusive knowledge of the petitioner and the remaining accused.

Having regarding to the nature of such allegation, I feel that this is not a fit case in which pre arrest bail is liable to be granted, which, if granted, will hamper the progress of investigation. Hence bail application fails and accordingly dismissed.

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ PS to Judge.

