

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY ,THE 29TH DAY OF MARCH 2019 / 8TH CHAITHRA, 1941

Bail Appl..No. 816 of 2019

CRIME NO. 11/2019 OF CHERUPUZHA POLICE STATION , Kannur

PETITIONERS/ACCUSED NOS. 2 TO 10:

- 1 SWAPNA SUDHEER
 AGED 42 YEARS
 KADAYAKKARA HOUSE, W/O.SUDHEER,
 SECRETARY, LABOUR WELFARE-CO-OPERATIVE SOCIETY,
 KAKKAYAMCHAL, CHERUPUZHA, KANNUR.
- 2 SURESH.K.
 AGED 40 YEARS,
 S/O.NARAYANAN,DIRECTOR LABOUR WELFARE-CO-OPERATIVE
 SOCIETY, KAKKAYAMCHAL, CHERUPUZHA, KANNUR.
- 3 BALANPOONTHODAN,
 AGED 68 YEARS
 S/O. KRISHNAN, DIRECTOR, LABOUR WELFARE-CO-OPERATIVE
 SOCIETY, KAKKAYAMCHAL, CHERUPUZHA, KANNUR.
- 4 THOMAS P.J.
 AGED 52 YEARS
 S/O. JOSEPH, NEDIYALKKALAYIL HOUSE,
 LABOUR WELFARE-CO-OPERATIVE SOCIETY, KAKKAYAMCHAL,
 CHERUPUZHA, KANNUR.
- 5 SIBI PONNARATHIL
 AGED 48 YEARS
 S/O.GEORGE, PERINGALA P.O, CHITTADI AMSOM,
 DIRECTOR,LABOUR WELFARE-CO-OPERATIVE SOCIETY,
 KAKKAYAMCHAL, CHERUPUZHA, KANNUR.
- 6 MINI MADHOOSOODHANAN
 AGED 42 YEARS
 W/O.MADHUSOODHANAN, KOOVAPLAKKAL HOUSE,
 DIRECTOR,LABOUR WELFARE-CO-OPERATIVE SOCIETY,
 KAKKAYAMCHAL, CHERUPUZHA, KANNUR.
- 7 NASEEMA KASIM
 AGED 48 YEARS
 W/O. KASIM PADATHADAM, DIRECTOR,
 LABOUR WELFARE-CO-OPERATIVE SOCIETY, KAKKAYAMCHAL,
 CHERUPUZHA, KANNUR.

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- 8 KUNHIRAMAN
AGED 65 YEARS
S/O. VINRUNTHAN,
VEMBIRINJEN HOUSE, VAYAKKARA, DIRECTOR,
LABOUR WELFARE-CO-OPERATIVE SOCIETY,
KAKKAYAMCHAL, CHERUPUZHA, KANNUR.
- 9 ALEEKKUTTY
AGED 58 YEARS, KANDOOOR HOUSE, THIRUMENI P.O,
DIRECTOR, LABOUR WELFARE-CO-OPERATIVE
SOCIETY, KAKKAYAMCHAL, CHERUPUZHA, KANNUR.
- BY ADV. SRI.M.V.AMARESAN

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
PIN-682031.
- ADDL. JOSEPH V.J
R2 AGED 40 YEARS
VILANGATT HOUSE, PATTAYANGANAM,
KADUMENI P.O, KASARAGOD DISTRICT,
PIN-670511.
(ADDL.R2 IS IMPEADED AS PER ORDER DATED
26/02/2019 IN CRL MA.01/2019)

SRI.C.S.HRITHWIK,PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
29.03.2019, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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ORDER

The petitioners are accused in Crime No.11/2019 of Cherupuzha Police Station registered for the offences punishable under Sections 468, 471 and 420 IPC read with Section 34 IPC.

2. The petitioners have filed this application under Section 438 Cr.P.C.

3. Heard.

4. It is alleged that the defacto complainant and two other persons deposited a total amount of Rs.9.65 lakhs in the Labour Welfare Co-operative Society, Kakkayamchal, wherein the 1st petitioner is the Secretary. Even after maturity, the said amount was not released by the 1st petitioner. The investigation revealed that the 1st petitioner, as the Secretary of the Society, issued loans in bogus names and misappropriated the amount collected

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from the defacto complainant and others. It appears that the investigation is only at the infancy stage. It appears that the amount deposited by the defacto complainant and others had been misappropriated by the 1st petitioner. It appears that the custodial interrogation of the first petitioner is necessary for the progress of investigation of this case. The custodial interrogation of the 1st petitioner is also necessary to find out as to whether the 1st petitioner had committed any other similar offence or not. Even though the learned counsel for the petitioners has submitted that the 1st petitioner resigned from the Society, the learned Public Prosecutor, on instructions, has submitted that the 1st petitioner did not submit any such resignation and hence she continues to be the Secretary of the Society, even though now-a-days, she does not come to the Society for performing the day-to-day

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duties. Having gone through the relevant inputs, I am of the view that an order under Section 438 Cr.P.C. in favour of the 1st petitioner will not be justified in this case. The respondent Nos. 2 to 9 are only the Director Board members of the Society. It appears that they had no active role in the transaction involved in this case. In the said circumstances, an order under Section 438 Cr.P.C. in favour of petitioner Nos.2 to 9 will be justified in this case.

In the result, this bail application stands dismissed as regards the 1st petitioner and allowed as regards petitioner Nos. 2 to 9 and the 1st respondent is directed to release petitioner Nos. 2 to 9 on bail in the event of their arrest in connection with Crime No.11/2019 of Cherupuzha Police Station, on condition of each of petitioner Nos.2 to 9 executing a bond for Rs.40,000/- (Rupees forty thousand only) each, with two solvent

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sureties each, each for the like sum to the satisfaction of the Station House Officer of Cherupuzha Police Station, before whom petitioner Nos.2 to 9 shall surrender within ten days, if not arrested in the meantime and subject to the following further conditions:

1. The petitioner Nos. 2 to 9 shall report before the Investigating Officer as and when required by the Investigating Officer for interrogation.
2. The petitioner Nos. 2 to 9 shall not intimidate or influence the witnesses or in any way tamper with the investigation.

The 1st petitioner is directed to surrender before the Investigating Officer within ten days.

Sd/-

B.SUDHEENDRA KUMAR

JUDGE

Nkr/29.03.19