

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 29<sup>TH</sup> DAY OF OCTOBER 2021 / 7TH KARTHIKA, 1943

CRL.MC NO. 3373 OF 2021

CRIME NO.1037/2020 OF Murikkassery Police Station, Idukki  
AGAINST THE ORDER/JUDGMENT IN CRMC 497/2021 OF DISTRICT COURT &  
SESSIONS COURT, THODUPUZHA, IDUKKI

PETITIONER:

JAYANTHI,  
AGED 53 YEARS  
W/O.RAMESAN, CHIRAYIL HOUSE, THOPRAMKUDY P.O.,  
VATHIKUDY VILLAGE, IDUKKI TALUK AND DISTRICT-685 604.

BY ADVS.  
GEORGE MATHEW  
M.D.SASIKUMARAN  
PRAVEEN S.  
SUNIL KUMAR A.G  
DIPU JAMES  
MATHEW K.T. (K/001047/2018)-268831025/2020  
GEORGE K.V.  
STEPHY K REGI

RESPONDENTS:

- 1 STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA,  
ERNAKULAM-682 031.
- 2 THE STATION HOUSE OFFICER,  
MURICKASSERY POLICE STATION,  
IDUKKI DISTRICT-685 604,  
THROUGH PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682 031.
- 3 THE SUB INSPECTOR OF POLICE,  
MURICKASSERY POLICE STATION,  
IDUKKI DISTRICT-685 605, THROUGH PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682 031.
- 4 GOPI,  
AGED 58 YEARS, S/O.NARAYANAN, KALACHIRAYIL HOUSE,

THOPRAMKIUDY POST AND KARA,  
VATHIKUDY VILLAGE,  
IDUKKI TALUK AND DISTRICT-685 604.

5 SHOBA,  
AGED 55 YEARS, W/O.GOPI, KALACHIRAYIL HOUSE,  
THOPRAMKUDY POST AND KARA, VATHIKUDY VILLAGE,  
IDUKKI TALUK AND DISTRICT-685 604.

BY ADV M.V.RAJENDRAN NAIR

BY PUBLIC PROSECUTOR SMT.MAYA M N

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
22.10.2021, THE COURT ON 29.10.2021 PASSED THE FOLLOWING:

## **ORDER**

The challenge laid is to an order dated 07.07.2021 in Crl.M.C.No.497 of 2021 of Sessions Judge's Court, Thodupuzha, whereby, anticipatory bail has been granted to respondents 4 and 5 (accused 1 and 2) in Crime No.1037 of 2010 of Murickassery Police Station in Idukki District based on a complaint filed by the petitioner before the Judicial First Class Magistrate Court, Idukki and forwarded to respondent 2 and 3 under Section 156(3) of the Code of Criminal Procedure alleging commission of offences punishable under Sections 467, 468, 471 r/w Section 34 of the Indian Penal Code.

2. The gist of the complaint was in order to cheat and to make unlawful gain respondents 4 and 5 forged an agreement stating that the complainant had agreed to sell 10 cents of land and for this they received Rs.2,50,000/- on 31.01.2018 and agreed to pay the balance amount of Rs.2,25,000/- before 31.07.2018 and this agreement was

presented in OS No.52 of 2021 pending before the Munsiff's court, Idukki, styling it as a genuine document. After the registration of the case respondents 4 and 5 herein filed an application for anticipatory bail in the above crime apprehending arrest.

3. Though the application for bail was opposed by the Public Prosecutor, after perusing the case diary, the learned Judge found that custodial interrogation was not necessary as the offence is with regard to the execution of an agreement which is filed before the Court trying the civil case. The Investigating Officer can see the documents from the Court if necessary send for a scientific investigation. The Investigation officer had stated that specimen handwriting and signature of the petitioners have to be collected, which the learned Sessions Judge found does not require custodial interrogation. In that view of the matter anticipatory bail was granted subject to conditions by Annexure A2. This is challenged in the above Crl.M.C.

4. Heard the learned counsel for the petitioner, learned counsel for respondents 4 and 5 and the learned Public Prosecutor.

5. The learned counsel for the petitioner submits that though the Public Prosecutor had vehemently opposed granting of bail as the accused were to be interrogated to get details about the others involved in forging the documents and to bring out all the culprits, custodial interrogation was absolutely necessary and thus grant of anticipatory bail cannot be legally sustained. He also submits that apart from committing forgery the said document was used styling it as a genuine document making use of the papers and the signature of the petitioner.

6. Learned counsel for respondents 4 and 5 submitted that the complaint, Annexure A1 does not reveal that any person other than them are involved in the forgery and that since the agreement is already produced in a Court, the Investigating officer will have no difficulty to get the same and forward for any scientific investigation. He further submits that in the nature of the case anticipatory bail ought to have been granted and the same was granted as early as on 07.07.2021.

7. After considering the rival contentions, reading the copy of the complaint as well the impugned order,

I find no reason at all to interfere with the grant of bail. In the instant case, as rightly noticed in the order granting anticipatory bail, the learned Judge has considered the relevant aspects and held that custodial interrogation was not required in the present case. I do not find any cogent or overwhelming reason to cancel the bail granted as no relevant material was ignored or irrelevant material, which has no relevance to the question of grant of bail was considered which will make the order granting bail legally untenable. The order granting anticipatory bail does not suffer from any infirmity much less any illegality to warrant interference in this petition.

In the result, the above Crl.M.C. is dismissed.

**MOHAMMED NIAS.C.P., JUDGE**

**APPENDIX OF CRL.MC 3373/2021**

**PETITIONER'S ANNEXURE**

Annexure A1                    TRUE COPY OF CMP NO.1257 OF 2020 DATED  
                                  23.11.2020 FILED BY PETITIONER BEFORE JFCM  
                                  COURT, IDUKKI,

Annexure A2 CERTIFIED TRUE COPY OF ORDER DATED 07.07.2021 IN  
CRL.MC NO.497 OF 2021 OF SESSIONS JUDGE'S COURT,  
THODUPUZHA.