

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 29TH DAY OF APRIL 2022 / 9TH VAISAKHA, 1944

BAIL APPL. NO. 8820 OF 2021

(AGAINST CRIME NO.1952/2021 OF GANDHINAGAR POLICE STATION,
KOTTAYAM)

PETITIONERS/ACCUSED NOS.1 & 2:

- 1 K.M. MUHAMMED KUTTY
 AGED 80 YEARS
 S/O. LATE K.K.MAKKAR, SHINEST, VELOOR P.O., KOTTAYAM
 DISTRICT-686501.

- 2 SHALU K.M.,
 AGED 38 YEARS
 S/O. K.M.MUHAMMED KUTTY, SHINEST, VELOOR P.O., KOTTAYAM
 DISTRICT-686501.

BY ADVS.
S.SHANAVAS KHAN
S.INDU

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM-682031.

SRI SURESH -SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
29.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

The petitioners are the accused Nos.1 & 2 in Crime No.1952/2021 of Gandhinagar Police Station, Kottayam District. The offenses alleged are punishable under sections 406 and 420 of the Indian Penal Code.

2. The prosecution case is that with the intention to cheat the defacto complainant, the petitioners had collected an amount of Rs.15,50,000/- from the defacto complainant by making him believe that he will be inducted in a partnership firm in which the petitioners, herein, are the partners. Later, they misappropriated the aforesaid amount and refused to make him a partner of the said firm. This petition is filed for anticipatory bail.

3. Heard both sides.

4. The learned counsel for the petitioners contend that the petitioners were falsely implicated in this case. It is pointed out that, earlier, the first petitioner submitted a complaint against the

defacto complainant raising the allegation of collection of certain amounts from the petitioners offering partnership in the firm in which the defacto complainant is a partner. It was pointed out that, the present complaint is only a counterblast against the complaint which was submitted by the petitioner herein. In such circumstances, the learned counsel prays for anticipatory bail.

5. On the other hand, learned Public Prosecutor opposed the aforesaid application.

6. On going through the materials available on record, it can be seen that there are several disputes between the petitioners and the defacto complainant. There are allegations and counter allegations, both relating to the investments made by both parties in connection with the business activities conducted by both of them. In the facts and circumstances of the case, I am of the view that, it is only appropriate to ensure a proper investigation in this case by issuing appropriate direction to the petitioners herein to appear before the Investigating Officer and to co-operate with the investigation.

7. In such circumstances, I am inclined to dispose of this application by directing the petitioners herein to surrender before the Investigation Officer within a period of three weeks from today subject to the following conditions:-

1) The petitioners shall surrender before the Investigating Officer, within a period of three weeks from today, for subjecting himself for interrogation.

2) After interrogation, the petitioners shall be released on bail, on the very same day of surrender upon the petitioners executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two solvent sureties each for the like sum, to the satisfaction of the Investigating Officer.

3) The petitioners shall fully co-operate with the investigation, including subjecting themselves to the deemed police custody for the purpose of recovery, if any, as and when demanded.

4) However it is made clear that since the first petitioner is aged 80 years and suffering from various ailments, he is required to appear before the Investigating Officer on every second Saturdays between 10.00 a.m and 11.00 a.m of every month until the filing of final report. The second petitioner shall appear before the Investigating Officer on every Saturday.

5) The petitioners shall also appear before the Investigating Officer as and when required by him.

6) The petitioners shall not commit any offense of like nature while on bail.

7) The petitioners shall not make any attempt to contact any of the prosecution witnesses, directly or through any other person, or any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

8) The petitioners shall not leave the State of Kerala without the permission of the trial court.

8. In case of violation of any of the above conditions, the jurisdictional Magistrate/Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with the law.

Accordingly, this bail application is allowed.

Sd/-

**ZIYAD RAHMAN A.A.
JUDGE**

APPENDIX OF BAIL APPL. 8820/2021

PETITIONER'S ANNEXURE

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| Annexure1 | TRUE COPY OF THE COMPLAINT DATED 15.09.2021
PREFERRED BY THE DEFACTO COMPLAINANT BEFORE
THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
ETTUMANNOR. |
| Annexure2 | TRUE COPY OF THE FIR IN CRIME NO.1952/2021
OF GANDHINAGAR POLICE STATION, KOTTAYAM
DISTRICT. |
| Annexure3 | TRUE COPY OF THE AGREEMENT DATED 24.11.2020
EXECUTED BY PETITIONER WITH THE DEFACTO
COMPLAINANT. |
| Annexure4 | TRUE COPY OF THE COMPLAINT DATED 19.03.2021
PREFERRED BY FIRST PETITIONER BEFORE THE
STATION HOUSE OFFICER, KOTTAYAM WEST POLICE
STATION. |
| Annexure5 | TRUE COPY OF THE FIR IN CRIME NO.994/2021 OF
KOTTAYAM WEST POLICE STATION. |
| Annexure6 | TRUE COPY OF THE PRINT OUT TAKEN FROM THE
WEB SITE OF THE MOTOR VEHICLES DEPARTMENT
DATED NIL. |
| Annexure7 | TRUE COPY OF THE INTERIM ORDER DATED
04.10.2021 IN W.P.(C)NO.16441/2021 OF THIS
HON'BLE COURT. |
| Annexure8 | TRUE COPY OF THE ORDER DATED 20.03.2021 IN
I.A.NO.2 OF 2021 IN O.S. NO.55 OF 2021 OF
THE HON'BLE MUNSIFF COURT, ETTUMANNOR. |
| Annexure9 | TRUE COPY OF THE ORDER DATED 09.11.2021 IN
CRL.M.P. NO.1856/2021 OF THE HON'BLE COURT
OF SESSION, KOTTAYAM. |