

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON

FRIDAY, THE 08TH DAY OF MAY 2020 / 18TH VAISAKHA, 1942

CRIMINAL M.C. NO.2596 OF 2020

(AGAINST CRL.M.P.NO. 2819/2020 IN CRIME NO.129/2020 ON THE FILES OF
THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALATHUR, PALAKKAD
DIRECTION TO QUASH ANNEXURE A9 ORDER)

PETITIONER / ACCUSED :-

ANKAN MITHRA, AGED 37 YEARS S/O PREMENDRA MITHRA,
FLAT NO.507, BLOCK 9, VBHC VAIBHAVA,
BAIGADADENAHALLI, ANEKKALTALUK,
OPPOSITE GOVARDHAN GRANITE, CHANTHAPURA, MARASUR,
BENGALURU, KARNATAKA, PIN:-562106.

BY. ADVS. RENJITH B.MARAR
LAKSHMI N.KAIMAL
U.JAYAKRISHNAN
SURABHI SANTOSH

RESPONDENTS / STATE:

1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.
2. THE SUB INSPECTOR OF POLICE,
VADAKKANCHERRY POLICE STATION, PALAKKAD-678683.

BY SR.PUBLIC PROSECUTOR SRI.C.S.HRITHWICK

THIS CRIMINAL MC HAVING COME UP FOR ADMISSION ON 08.05.2020, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

ASHOK MENON, J.

Crl.MC.2596 of 2020

Dated this the 8th day of May, 2020

ORDER

The petitioner is aggrieved by Annexure A9 order of the Judicial First Class Magistrate-I, Alathur, wherein the bail application filed by the petitioner under Section 437 has been dismissed by the learned Magistrate stating that the investigation is still going on, and therefore it cannot be appropriate to release the accused at that stage. It is pertinent to note that the petitioner had approached this Court and considering the present situation of the pandemic and the lock down, this Court had granted him interim bail and specifically directed that on expiry of 30 days or within three days of withdrawal of the lock down by the Government, whichever is earlier, the applicant shall appear before the Jurisdictional Magistrate and seek regular bail and the

court shall consider his application on its merits and pass appropriate orders. But it is surprising to note that the petitioner was not even heard as submitted by the learned counsel for the petitioner and orders have been passed by the learned Magistrate on the application which was filed as e-mail, without hearing the counsel in detail regarding his claim for bail. The offences are under Sections 279, 304 and 201 of the IPC.

The impugned order is therefore set aside and the petitioner shall be released on bail on execution of bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like amount to the satisfaction of the jurisdictional Magistrate and on the conditions which have been imposed earlier by this Court.

**ASHOK MENON
JUDGE**

APPENDIX

PETITIONER'S ANNEXURE'S

ANNEXURE A-1: TRUE COPY OF THE FIR IN CRIME NO. 129/2020 OF THE VADAKKANCHERRY P.S.

ANNEXURE A-2: TRUE COPY OF THE ORDER DATED 12.03.2020 IN CRL.M.P.NO. 2537/2020 PASSED JUDICIAL MAGISTRATE FIRST CLASS MAGISTRATE COURT-I, ALATHUR.

ANNEXURE A-3: TRUE COPY OF THE ORDER DATED 24.03.2020 IN CRL.M.C.NO.1003/2020 PASSED BY THE SESSIONS COURT, PALAKKAD.

ANNEXURE A4: TRUE COPY OF THE MEDICAL CERTIFICATE OF THE ANSHU MITRA DATED 19.03.2020 ISSUED BY BANGALORE BAPTIST HOSPITAL.

ANNEXURE A5: TRUE COPY OF THE ORDER DATED 30.3.2020 IN CRL.M.P. NO. 2772 OF 2020 PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT I,ALATHUR.

ANNEXURE A6: TRUE COPY OF THE ORDER DATED 8.4.2020 IN B.A.T.M.P.NO.10/2020.

ANNEXURE A7: TRUE COPY OF THE APPLICATION PREFERRED BY THE PETITIONER THROUGH HIS LAWYER ALONG WITH THE SURETY AFFIDAVIT ETC.

ANNEXURE A8: TRUE COPY OF THE APPLICATION PREFERRED UNDER SECTION 451 ALONG WITH THE DOCUMENTS THEREIN, PREFERRED VIA E-MAIL.

ANNEXURE A9: TRUE COPY OF THE ORDER DATED 7.5.2020 IN CRL.M.P.NO.2819/2020 IN CRIME NO.129/2020 OF THE VADAKKANCHERRY POLICE STATION ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALATHUR.