

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

TUESDAY, THE 05TH DAY OF MAY 2020 / 15TH VAISAKHA, 1942

CRL. M.C. TMP NO. 18 OF 2020

CRIME NO.828 OF 2018 OF KOLLAM EAST POLICE STATION

PETITIONER/ACCUSED NO. 1

ANEESH BABU, AGED 29 YEARS,

S/O BABU GEORGE, RESIDING AT VAZHAVILAVEEDU,

AMBALAKKARA P.O, KOTTARAKKARA, KOLLAM - 691532

BY ADV. SRI SANDEEP R.N.

ADV. SMT. KEERTHI VIJAYAN

RESPONDENTS/COMPLAINANT/STATE:

1.STATE OF KERALA, REPRESENTED  
BY THE PUBLIC PROSECUTOR, HIGH  
COURT OF KERALA, ERNAKULAM,  
KOCHI-682 031.

2.THE CIRCLE INSPECTOR OF POLICE, KOLLAM EAST  
POLICE STATION, KOLLAM

BY PUBLIC PROSECUTOR SMT. M.K.PUSHPALATHA

THIS CRIMINAL MISCELLANEOUS CASE HAVING COME UP FOR  
ADMISSION ON 05.05.2020, THE COURT ON THE SAME DAY PASSED  
THE FOLLOWING:

V.G.ARUN, J.

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Crl. M.C. TMP No. 18 of 2020  
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Dated this the 5<sup>th</sup> day of May, 2020

ORDER

This Criminal Miscellaneous Case is filed by the first accused in Crime No.828 of 2018 of Kollam East Police Station. This Court had granted bail to the petitioner as per Annexure A1 order subject to stringent conditions, one of which was that the petitioner's wife herself should be one among the sureties. Based on the order and on the strength of the surety bond executed by his wife, the petitioner was enlarged on bail on 28.06.2018.

2. According to the learned Counsel for the petitioner, subsequently there arose matrimonial disputes between the petitioner and his wife, which ultimately resulted in the wife approaching the trial court with an application under Section 444(1) of the Cr.P.C, praying that her bond should be discharged

since she did not intend to continue as a surety to the petitioner. Accordingly, the trial court issued notice to the petitioner, who appeared with a fresh surety. The wife was discharged of her bond and the fresh surety bond was accepted. It seems that later, the trial court found that this Court had directed that the petitioner's wife herself should be one among the sureties and that the condition stood violated by the wife being discharged. After issuing a show-cause notice to the petitioner, and not being satisfied with the explanation offered, the fresh surety bond executed in view of the surety of the petitioner wife, was cancelled and the petitioner was remanded to the custody on 27.04.2020.

3. The only reason for the trial court cancelling the fresh surety bond is the condition in Annexure A1 that one among the sureties should be the petitioner's wife. That condition stood complied with by the petitioner's wife offering herself as one among the sureties and executing surety bond, on

the strength of which the petitioner was enlarged on bail.

4. Going by the wording of Section 444 (3) of Cr.P.C, the only requirement on discharge of one of the sureties is that the accused should be called upon to find other sufficient sureties, failing which, he may be committed to jail. As far as the instant case is concerned, the accused had furnished a fresh surety which the trial court found to be sufficient. Therefore, the cancellation of the fresh surety bond appears to be *prima facie* illegal.

In such circumstances, I am inclined to direct that the petitioner be enlarged on interim bail for two months, on the petitioner providing a fresh surety to the satisfaction of the trial court. It is for the petitioner to seek modification of Annexure A1, in the meanwhile, if so advised.

The Crl.M.C is allowed as above.

V.G.ARUN  
JUDGE

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