



IN THE COURT OF SESSION (VACATION COURT).

ERNAKULAM DIVISION

Present:

Sri. P K Mohandas, VIII Additional Sessions Judge
(Vacation Judge)
Saturday, the 26th day of August, 2023/ 4th Bhadra, 1945

CrI.M.C. No. 2298/2023
(Crime No.1202/2023 of Thrikkakara Police Station)

Petitioner/Accused:-

Shajan Skariah, aged 51 years, S/o.Skariah, Kariyilakulam, Edakadathy,
Edakadathy South, Kottayam, Pin – 686510.

By Advs. Shyam Sekhar K.R. and P.V. Anil.

Respondent/Complainant:-

State of Kerala represented by the Public Prosecutor, Sessions Court,
Ernakulam.

By the Public Prosecutor Sri.Abhilash Akbar

This petition filed u/s.438(1) of Cr.P.C., praying this Court to grant
anticipatory bail to the petitioner.

This petition coming on for hearing on 26.08.2023 and the court on the
same day passed the following:-

ORDER

This is an application filed u/s.438 of Cr.P.C seeking pre-arrest bail by
the accused in Crime No.1202/2023 of Thrikkakara police station.

CrI.M.C. 2298/2023



2. The allegation against the petitioner is that with an intention to obtain registration of the company "Tiding Digital Publications Pvt. Ltd." with the Kerala Registrar of Companies, he forged a false telephone bill in respect of phone No.0471 2982182 with bill No.SDCKL0011832807 dated 06.07.2018 of BSNL and produced the same before the Kerala Registrar of Companies, as if it is the original telephone bill and obtained registration for the company and thus committed the offence punishable under sections 420, 468 and 471 of the IPC. Apprehending arrest the petitioner filed this petition for pre-arrest bail.

3. I have heard the counsel appearing for the petitioner and the learned Public Prosecutor. Perused the report of the investigating officer.

4. When the matter taken-up for hearing, the learned Public Prosecutor submitted a report of the investigating officer stating that the accused has been arrested at 10.25 a.m. today from Nilambur and he is being brought to Thrikkakara police station. The Public Prosecutor submitted that the petition has become infructuous. The learned counsel for the petitioner opposed the submission and contended that the petition has not become infructuous and a considered order is necessary in this matter.



5. The learned counsel for the petitioner submitted that the accused was directed to appear before the SHO, Nilambur by the Hon'ble High Court of Kerala on this day and when he appeared before the S.H.O. Nilambur, he is allegedly taken into custody by the investigating officer in this case, while this application is being considered by the Court. According to him, only because the accused has been arrested, the petition cannot be said to be not maintainable.

6. On hearing the counsel for the petitioner and the Public Prosecutor, I am of the view that it is necessary to consider the contentions of both sides for a proper disposal of the petition and it is not proper to dispose the petition in a summary manner. It is necessary to go through the history of the case and the various incidents transpired while this application was pending.

7. The investigating officer has filed detailed report on 21.08.2023 which contains the details of the allegations against the petitioner. The report shows that the case was registered on the basis of a complaint filed by one Radhakrishnan of New Delhi before Hon'ble Chief Minister of Kerala, which was forwarded to the SHO, Thrikkakara for investigation. It is stated that the petitioner is the Managing Director of "Tiding Digital Publications Pvt. Ltd."

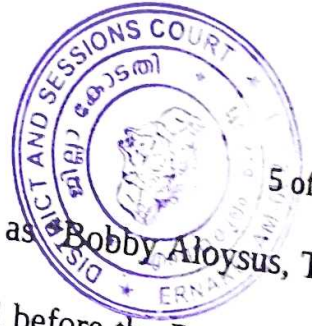
CrI.M.C. 2298/2023



4 of 14

and he has obtained certificate of incorporation, memorandum of association etc. on the basis of a forged document produced before the Kerala Registrar of Companies. It is reported that the investigating officer has obtained certified copies of such documents. The company was registered on 11.07.2018. In the report it is stated that the petitioner was a Director of the company from 11.12.2018 and on 01.12.2022 he resigned from the post and became the Managing Director. One Ann Mary George was the Director from 11.07.2018 to 17.07.2018 and she became the Managing Director on 17.07.2018. She retired from the post on 31.08.2020. One Biju Thomas became the Director on 28.12.2020 and became the Managing Director on 20.01.2021. One Sojan Scaria became the Director on 28.12.2020. It is also stated that as per the memorandum of association and articles of association of the company, the petitioner, one Ann Mary George are the subscribers of the company. In paragraph 1(f) of the report it is stated that the petitioner had submitted the documents before the Registrar of Companies as if he had taken building No.TC 17/3164 II, Pattam Palace P.O., Trivandrum on rent for "Tiding Digital Publications Pvt. Ltd." and rent agreement and the telephone bill in dispute in the name of Bobby Aloysus was produced as address proof. It is reported that the BSNL Principal General Manager has produced the customer application of the telephone number. It is alleged in the report that the address in the telephone bill was "Maurnadan Malayali, TC 17/3164 (2), Panachamood

Crl.M.C. 2298/2023



5 of 14

Lane, Pattom, Trivandrum....” etc. has been changed as Bobby Aloysius, TC 17/3164 II, Pattom Palace P.O....” etc. and produced before the Registrar of Companies. As per the report the registration was obtained from the Registrar of Companies by producing the false document. The learned Public Prosecutor submitted that the petitioner forged false telephone bill and obtained the registration on the basis of the same and thereby cheated the Registrar of Companies.

8. The learned counsel for the petitioner submitted that at the relevant time the petitioner was not the Managing Director of the company and the registered address of the company was not the one shown in the telephone bill allegedly forged. He produced a copy of the minutes of the first meeting of the Board of Directors of the company held on 17.07.2018 in which it was resolved to appoint one Ann Mary George as the Managing Director of the company for a period of five years with effect from 17.07.2018. He also produced a copy of the Certificate of Incorporation issued by the Deputy Registrar of Companies stating that the company has been incorporated on the 11th day of July 2018. In that document the registered address of the company is shown as “GSS NRA 76, NCC Road, Ambalamukku, Peroorkada P.O.....” etc. The learned counsel submits that the address in the document allegedly forged by the petitioner and the address in



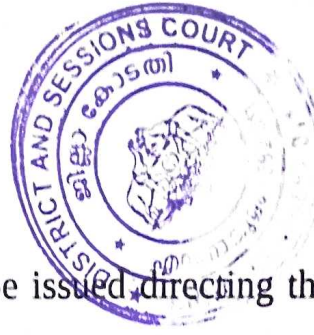
the Certificate of Incorporation are entirely different and the petitioner had no occasion to produce a false document before the Registrar of Companies for obtaining a registration. He submits that the petitioner is a news reader and running a news channel by name "Marunadan Malayali" and as some news articles appeared in the channel against some political leaders and police officers, they have an axe to grind against the petitioner and he is being harassed by the police without any reason. He submits that the petitioner had approached the Hon'ble High Court of Kerala for protection. As per order dated 19.07.2023 in WP(C) No.23279/23, the Hon'ble High Court of Kerala had directed the State Police Chief and his subordinate officers to issue notice either u/s.41A Cr.P.C or a notice informing that non bailable offence is registered against the petitioner in the police station concerned after giving ten days time to the petitioner. He submits that five cases have already been registered by the police in different police stations and about 107 cases are in the pipeline and the petitioner apprehends arrest by the police in all such cases and that was the reason for approaching the Hon'ble High Court with WP(C) No.23279/23.

9. The learned counsel for the petitioner submits that the Hon'ble Supreme Court has passed an order on 10.07.2023 in SLP No.8081/23 staying the arrest of the petitioner in connection with crime no.899/2023 of



Elamakkara Police Station. According to him, the petitioner was served with a notice regarding his case on 03.08.2023. Though intimation was bearing the date 26.07.2023, the same was served on the petitioner only on 03.08.2023. He immediately, he submitted this application before the Sessions Judge for pre-arrest bail on 10.08.2023 and the case was being adjourned at the request of the Public Prosecutor till today. He submits that the Hon'ble High Court of Kerala had granted pre-arrest bail to the petitioner in Crime No.702/23 of Nilambur police station as per order dated 10.07.2023 in Bail Appln. No.5829/2023 and he was directed to appear before the investigating officer on 17.08.2023. As his mother was laid-up he could not appear before the investigating officer as directed and he filed an application before the Hon'ble High Court for extension of time. The Hon'ble Court as per order dated 25.08.2023 in B.A. No.5829/23 directed the petitioner to appear before the investigating officer at Nilambur on 26.08.2023 at 10.00 am. He submits that the petitioner appeared before the SHO, Nilambur as per the direction of the Hon'ble High Court and as per the report of the investigating officer in this case, he has been taken into custody when he appeared before the SHO.

10. According to the learned counsel for the petitioner, only because the accused has been taken into custody by the police, the petition will not



become infructuous and an order has to be issued directing the investigating officer to release the petitioner on bail.

11. As stated above, this case was registered on the basis of a complaint filed by one Radhakrishnan before the Hon'ble Chief Minister of Kerala alleging that the petitioner has forged a telephone bill with an intention to obtain registration of a company by name "Tiding Digital Publications Pvt. Ltd.". As per the allegations, the bill bearing date 6.7.2018 was forged to obtain the registration. The documents produced from the side of the petitioner shows that the first meeting of the Board of Directors was held on 17.07.2018 and one Ann Mary George was appointed as the Managing Director. The Certificate of Incorporation produced from the side of the petitioner shows that the registered address of the company is not the one shown in the document allegedly forged by the petitioner.

12. A perusal of the report shows that though the investigating officer has collected the certified copies of the Certificate of Incorporation, Memorandum of Association, Articles of Association, etc., such documents are not made available before this Court for perusal. Even the document allegedly forged is also not placed before the court. From the materials on record, the petitioner was not the Managing Director of the company at the relevant time.



The document is allegedly produced before the Kerala Registrar of Companies in July 2018 and no complaint is seen filed by the Registrar of Companies, who is the really aggrieved person, if any cheating or forgery is committed by the petitioner. The person who filed the complaint before the Hon'ble Chief Minister has no direct connection with document allegedly forged. The learned counsel for the petitioner submitted that the complainant is also working in another news channel and is harbouring business and has personal rivalry against the petitioner and he had filed a false complaint against the petitioner and another as CTS No.10546/2020 before the Chief Metropolitan Magistrate, New Delhi which was ended in dismissal. According to the counsel, this is also a false complaint to harass the petitioner.

13. As stated above, the petitioner is stated to have arrested from Nilambur at 10.25 a.m. today. When the matter was taken up for hearing at 11.00 am before this court, the learned Public Prosecutor submitted the report regarding the arrest of the petitioner. The petitioner was directed to appear before the S.H.O. Nilambur today at 10.00 a.m as per the order dated 25.08.2023 of the Hon'ble High Court of Kerala.

14. A perusal of the order dated 25.08.2023 of the Hon'ble High Court of Kerala is made available by the counsel for the petitioner. That shows



that when the matter was taken up for hearing on 21.08.2023, the Director General of Prosecution submitted that the investigation in crime No.702/23 of Nilambur Police Station has been stalled because of the non co-operation of the petitioner. On the basis of the submission of the Director General of Prosecution and the counsel for the petitioner, the Hon'ble Court directed the petitioner to appear before the investigating officer at 10.00 a.m today. If the report of the investigating officer in this case is believed, he was taken into custody at 10.25 a.m. The report does not disclose the place from where the petitioner was taken into custody. The learned Public Prosecutor submitted that he was taken into custody when he arrived at Nilambur. If that be so, he is arrested by the investigating officer in this case without permitting to comply the order of the Hon'ble High Court. It is stated in the report of the investigating officer that the petitioner is being brought to Thrikkakara police station.

15. The petitioner was directed to appear before the S.H.O, Nilambur by the Hon'ble High Court on the basis of the submission of the Director General of Prosecution that the investigation in that is being delayed. But within half an hour of his surrender before the investigating officer, or even before he reached the Police Station, he has been taken into custody in connection with this case. That shows that despite the submission by the



Director General of Prosecutor before the Hon'ble High Court, the S.H.O., Nilambur had did not get an opportunity to interrogate the petitioner or conduct any investigation in the presence of the petitioner.

16. When the accused appears before the investigating officer as per the direction of the Hon'ble High Court in an application for pre-arrest bail, he will be under the expectation that in case of his arrest, he will be released on bail. He appears before the investigating officer in good faith that he has got protection of the order of the Hon'ble High Court. Arresting a person while he is proceeding to the police station or on his surrender before the police on the basis of a Court order, in connection with another case, is nothing but making the Court procedures a mockery. It is really a clear abuse of the process of the law. The bad intention of the investigating agency is clear from the fact that the disposal of this petition was delayed by the investigating officer seeking time. Today, when the matter was considered by this Court at 11.00 a.m today, it is reported that the petitioner is taken into custody at 10.25 a.m. This is nothing but abuse of the process of the Court.

17. It is submitted by the learned counsel for the petitioner that in all other pending cases the petitioner has been granted pre-arrest bail by the Courts. He produced copies of the order of the Sessions Court,



Thiruvananthapuram granting bail to the petitioner. But, that will not any way help the petitioner to get a favourable order in this case.

18. From the discussion in the above paragraphs will show that the petitioner has been taken into custody by the investigating officer when he was appearing before the SHO, Nilambur as per the order of the Hon'ble High Court. The offence alleged against the petitioner is that he forged a telephone bill. The incident allegedly happened in the year 2018 and the case is registered on the basis of a complaint filed by a third party. The Registrar of Companies have not made any complaint. This is not a very serious offence which require urgent arrest of the accused. I don't think that Custodial interrogation of the petitioner will serve any purpose in this case. The learned counsel for the petitioner submitted that all the computers and connected equipments have already been taken into custody by the police in connection with some other case. Any how, considering the way in which the accused has been taken into custody, I am of the view that the investigating officer has acted in a haste. Only because the petitioner is arrested by the investigating officer the petition does not become infructuous.

19. Considering the nature of the allegations and the facts and circumstances of the case narrated above, I am of the view that though pre-



arrest bail as such cannot be granted in this case, as the petitioner is already arrested, he can be directed to be released on bail after his interrogation.


20. In the result, the petition is allowed with following directions;

1. As the petitioner is reported to be arrested by the investigating officer today at 10.25 am, the investigating officer shall release him on bail today itself, after his interrogation, on his executing bond for Rs.50,000/- with two solvent sureties each of the like amount.
2. The petitioner shall appear before the investigating officer as and when required by him, till the final report is filed.
3. The petitioner shall not involve in any other offence while on bail.
4. In case of violation of any of the conditions of this order, the investigating officer may apply for cancellation of the order.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 26th day of August 2023.



54/-
P.K. Mohandas
Addl. Sessions Judge - VIII
(Vacation Judge)

// True Copy //
(By Order)

SHERISTADAR I/C

Crl.M.C. No.2298/2023
ORDER
Dated: 26.08.2023