

(2022) 01 KL CK 0164

In the High Court Of Kerala

Case No : Criminal Miscellaneous Petition No. 315 Of 2022

Syangatan Budhumaya

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 21-01-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 468, 471
Foreigners Act, 2004 — Section 14A(a)

Citation : (2022) 01 KL CK 0164

Hon'ble Judges : K.Haripal, J

Bench : Single Bench

Advocate : Bibin Varghese, P.M.Arun Das, Hrithwik C.S

Final Decision : Allowed

Judgement

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K.Haripal, J

1. Petitioner is the accused in crime 1260/2019 of Nedumbassery Airport police station, which was registered on 04.10.2019 alleging offence under

Sections 468 and 471 of the Indian Penal Code besides under Section 14A(a) of the Foreigners Act, 2004. The petitioner is a citizen of Nepal; the

offence was detected on her way to Kuwait via Cochin International Airport; during emigration check, her Nepal passport was found tampered with;

some corrections were made at page No.23 of the passport. At that time, she was on the way to Muscat from Kochi by Oman Airways. She was

arrested on 05.12.2019 and since then is in judicial custody.

2. By Annexure-A2 order she was granted bail by the Judicial First Class Magistrate, Angamaly, imposing conditions, among other things, that she

shall make a cash security of Rs.1 lakh, and that the political agent or diplomatic agent of the country to which she belongs shall execute a bond for

Rs.5 lakhs. Contending that condition Nos.2 and 4 are cumbersome, the petitioner moved CMP. 2459/2021 before the jurisdictional court. Even though

the 2nd condition was lifted, no modification was made with regard to the 4th condition. Aggrieved by the same, the petitioner has moved this Court

under Section 482 of the Code of Criminal Procedure.

3. I heard the learned counsel for the petitioner and also the learned Senior Public Prosecutor.

4. The learned counsel for the petitioner submits that the petitioner is a hapless lady having two children, her husband is a cardiac patient, she is unable

to arrange execution of bond by the political agent or diplomatic agent. She is in custody for more than two years and therefore the said condition is

sought to be lifted. According to the learned counsel, the investigation is still continuing.

5. On the other hand, the learned Senior Public Prosecutor pointed out that the police is unable to file final report owing to the non co-operation of the

Kuwait Government; details called for from that Ministry have not been furnished so far.

6. That means, even after the registration of the crime and after lapse of more than two years and one month, the case is still in investigation stage

and the petitioner is languishing in jail all along. It appears that the political agent or diplomatic agent, to which she belongs, also does not evince

interest in the case of the petitioner. In fact, the purpose of imposing conditions while granting bail is to secure the presence of the suspect for further

proceedings, for trial, if a charge sheet is laid. There are other conditions like the petitioner shall remain in Ernakulam till the disposal of the

proceedings, etc. will sufficiently take care of the situation and will ensure the presence of the petitioner for the follow up proceedings. In the

circumstances, I am of the view that condition No.4 is also cumbersome and illusory and is liable to be lifted.

In the result, condition No.4 in Annexure-A2 order shall stand lifted and subject to honouring the other conditions, she shall be released on bail.

The Crl.M.C. is allowed as above.