

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA

Present: Sri. Jobin Sebastian, Sessions Judge

Tuesday the 11th day of October, 2022

Crl. M.P. No. 4061/2022

(Crime No. 1436/2019 of Alappuzha North Police Station)

Petitioner: K.J. Dennis, 66 years, Managing Director,
DC Mills Pvt. Ltd., Pathirappally, Alappuzha North,
Alappuzha.
By Adv. P. Roy

Cr. Petitioner: State of Kerala, rep.by the Chief Secretary,
Thiruvananthapuram, through the S.I. of Police,
Alappuzha North Police Station.
Represented by the Public Prosecutor, Alappuzha.

The petition having been heard on 10.10.2022 and the court on 11.10.2022 passed the following:

ORDER

This is an application filed by the first accused in Crime No.1436/2019 of Alappuzha North Police Station, for lifting the 4th condition imposed by this court while granting bail to him vide order dated 22.07.2021 in Crl.M.P.No.1262/2021.

2. The accusation which the petitioner is facing in the above said case is that, the accused, who is a proprietor of a business concern, with an intention to make unlawful gain and to cause unlawful loss to the defacto complainant and other employees in his business concern, did not remit the employees contribution to their provident fund, after deducting the same from their salary and thereby committed offences punishable u/ss.420, 406 and 409 r/w. Sec.34 of IPC.

3. The petitioner was granted bail in the above said case by this court vide order in Crl.M.P.No.1262/2021 dated 22-7-2021, on conditions. The fourth condition in the said bail order is that "The petitioner shall not leave India without the prior permission of the court." According to the petitioner, he had been strictly complying all the conditions including the fourth condition imposed by the court without any default. Moreover, the investigation in this case is over and final report is laid before court and now the case is pending as C.C.No.151/2022 before

the Chief Judicial Magistrate Court, Alappuzha. Moreover, the petitioner had already remitted the entire employees provident fund contribution, which is the subject matter of the case. Likewise, the petitioner had already approached the Hon'ble High Court for quashing the charge sheet filed against him and the Hon'ble High Court had stayed the further proceedings of the said case. As the petitioner being a managing director of a private limited company, which is engaged in the manufacturing and exporting of coir matting, textile mats, nylon and wool carpets etc., he has to visit various countries frequently for the purpose of meeting various buyers of his products. Similarly, he has to conduct stalls in the name of the company in various countries where business exhibitions are held. Therefore, it is highly necessary to lift the 4th condition imposed by this court while granting bail to him in the above said case. This court was pleased to relax condition No.4 in three occasion and permitted him to visit foreign countries in connection with his foreign business. The petitioner has to conduct a business tour during the month of October in the United State of America and the said visit is absolutely necessary for the welfare of the company. Due to the imposition of the 4th condition, the petitioner finds it very difficult to visit foreign countries in connection with his business. Therefore, it is highly necessary to lift the 4th condition imposed upon the petitioner at the time of granting bail.

4. The specific allegation, which the petitioner is facing is that he had cheated his employees by not remitting the employees contribution in their provident fund and misappropriated the said amount. Of course, the allegation against the petitioner is a serious one. It is apparent that this court had clamped some stringent conditions in the order granting bail to the petitioner and as ready mentioned, the 4th condition imposed in the bail order is that "The petitioner shall not leave India without the prior permission of the court." The said condition was imposed in order to alleviate the apprehension of the prosecution regarding the chance of abscondance of the accused.

5. Now the grievance of the petitioner is that he is a business man engaged

in the export of several consumable items including coir products and he has to visit several foreign countries for his business purpose and due to the 4th condition imposed, he has to approach the court to relax the said condition to perform his journies. According to the petitioner, on three occasions, he had filed applications before this court to relax the 4th condition in order to visit foreign countries. According to the petitioner, whenever he wants to go abroad, it is necessary to approach the court seeking permission and the same causes much inconvenience to him. I do admit that already on three occasions, the petitioner had filed application before this court seeking relaxation of the 4th condition imposed by the court and the court allowed all those petitions and permitted him to go abroad for his business purpose.

7. Anyhow, it cannot be ignored that if the fourth condition imposed by this court is lifted as such, the chance of abscondance of the petitioner cannot be ruled out. In the report submitted by the investigating officer, it is specifically stated that, if the 4th condition is lifted, the petitioner may abscond and it will affect the trial of the case. Of course, the said report filed by the investigating officer cannot be ignored. The investigation in this case, in which the petitioner is arrayed as the first accused is already over and now the case is ripe for trial. From the report submitted by the SHO, it is further discernible that the second accused in this case is already absconding. I do admit that by producing some receipts along with this petition, the petitioner had succeeded in showing that he had remitted the employees contribution to the provident fund, subsequent to the registration of this case. However, the said fact alone is not a reason to allow this petition. As already mentioned, if this petition is allowed and the condition imposed by this court in the order granting bail to the petitioner is lifted as such, the chance of the petitioner fleeing from justice cannot be ruled out. In that event, the trial of the case, which is already charge sheeted would be stalled indefinitely and it would be difficult to procure his presence in the near future. Considering the above aspects, I am of the view that it is not desirable to lift the 4th condition imposed by this court as such.

However, it is open for the petitioner to approach this court for relaxation of the said condition, if convincing materials are there to establish that he has to visit foreign countries for the purpose of his business.

In the result, this petition stands dismissed.

Dictated to the Confidential Assistant, transcribed by him, corrected and pronounced by me in open court on this the 11th day of October, 2022.

Sd/-
SESSIONS JUDGE
ALAPPUZHA