

**Roopesh K. Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1163521](http://sooperkanoon.com/1163521)

**Court :** Kerala

**Decided On :** Aug-26-2014

**Judge :** Honourable Mr. Justice K.Ramakrishnan

**Appellant :** Roopesh K.

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN TUESDAY, THE 26TH DAY OF AUGUST 2014 4TH BHADRA, 1936 CrI.MC.No. 3432 of 2014 () ----- CRMP18272014 of SESSIONS COURT, THALASSERY IN CRMC7472013 of SESSIONS COURT, THALASSERY ----- PETITIONER/ACCUSED : ----- ROOPESH K. S/O. JANARDHANAN, SREE SHANKARALAYAM, P.O. TEMPLE GATE, THALASSERY TALUK, KANNUR DISTRICT. BY ADV. SRI.V.BINOY RAM RESPONDENT/COMPLAINANT : ----- STATE OF KERALA REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT. SAREENA P. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/08-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BP CrI.MC.No. 3432 of 2014 () ----- APPENDIX PETITIONER(S)' EXHIBITS ----- ANNEXURE I: TRUE COPY OF THE

ORDER

IN CRL.MC. 747/2013 DATED 28-05-2013 OF THE SESSIONS COURT, THALASSERY. ANNEXURE 2 TRUE COPY OF THE DIARY EXTRACT OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THALASSERY IN C.P. 26/2013. ANNEXURE 3 TRUE COPY OF THE PETITION IN C.M.P. 1827/2014 ON THE FILE OF SESSIONS COURT, THALASSERY. ANNEXURE 4 TRUE CERTIFIED COPY OF THE

ORDER

DATED 10-06-2014 IN C.M.P. 1827/2014 OF SESSIONS COURT, THALASSERY. RESPONDENT(S)' EXHIBITS : NIL. //TRUE COPY// P.A. TO JUDGE BP K. Ramakrishnan, J.

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Crl.M.C.No.3432 of 2014  
Dated this, the 26th day of August, 2014.

ORDER

This is an application filed by the petitioner challenging the order passed in Crl.M.P.No.1827/14 of Sessions Court, Thalassery under Section 482 of Code of Criminal Procedure.

2. It is alleged in the petition that petitioner has been arrayed as 5th accused in Crime No.555/09 of Thalassery Police Station along with others alleging offences under Sections 395, 399, 411, 120(B) read with Section 34 of Indian Penal Code. After investigation, final report was filed and it was committed to the Court of Sessions and after committal, it was taken on file as S.C.No.619/11 and it was made over to Additional Assistant Sessions Court, Thalassery for disposal and it is pending before that court. The petitioner is employed in Gulf country for the last seven years. When he came to native place on leave during 2013, he was arrested and as per Annexure 1 order, bail was granted to him on condition of deposit of the passport. Though he was regularly appearing, the case could not be taken up. So, he filed an application for lifting the condition and release the passport as Crl.M.C.No.3432 of 2014 :

2. : Crl.M.P.1827/14 before the Sessions Court, Thalassery and the learned Sessions Judge dismissed the application by Annexure 4 order which is being challenged by the petitioner by filing this petition.

3. Heard the Counsel for the petitioner and the learned Public Prosecutor.

4. The Counsel for the petitioner submitted that he is in India during May 2013 and he was arrested on 06.05.2013 and thereafter, he was granted bail on 01.06.2013 as per Annexure A1 order as condition for granting bail, he was directed to surrender the passport and that was surrendered also. Though one year is lapsed, the trial of the case could not be taken up and he is unable to go abroad. So, he filed an application for modifying that condition and release the passport. But, that was dismissed by the learned Sessions Judge. He is unable to go abroad and there is no possibility of the case being taken up as well. So, he has no other option except to approach this court challenging that order.

5. The application was opposed by the Public Prosecutor on the ground that he was absconding during the investigation stage and only after issuing non bailable warrant Crl.M.C.No.3432 of 2014 :

3. : his presence could be procured.

6. It is an admitted fact that he was arrayed as an accused in Crime No.555/09 of Thalassery Police Station along with others and after investigation, final report was filed and during committal period, he appeared and after committal, it was originally taken on file as S.C.No.619/11 and it was made over to Additional Assistant Sessions Court, Thalassery and since he did not appear, case against him was split up and later, it was transferred to register of long pending cases as L.P.C.No.25/12. Thereafter, on 06.05.2013, when he came to India, he was arrested and after some time, he was granted bail as per Annexure 1 order and released on bail on 01.06.2013. One of the condition for granting bail was to surrender his passport and accordingly, he had surrendered his passport. Though the case was refiled in the year 2013, so far, it was not taken for trial. So, he filed the application for releasing the passport but that was dismissed by the learned Sessions Judge which is being challenged. It is seen from Annexure II report that

as per order in C.P.No.26/13, the case was committed to the Sessions Court on 28.05.2014 and it is seen from the order of the Sessions Court that the case is now CrI.M.C.No.3432 of 2014 :

4. : pending before Additional Assistant Sessions Court, Thalassery. The report of the Additional Assistant Sessions Judge shows that there is no possibility of this case being taken up as it is not included in the target. So, he requires seven months time for disposal of the case, if this court directs the Additional Assistant Sessions Judge to dispose of the case. So, under the circumstances, this court feels that the petition can be disposed of as follows: If the petitioner applies before the Additional Assistant Sessions Court for permission to go abroad, specifying the period and also purpose for which he wants to go, then, the learned Additional Assistant Sessions Judge is directed to consider and dispose of that application taking into account the principles laid down in the decision reported in Asok Kumar v. State of Kerala [2009 (2) KLT712. The dismissal of the application by the learned Sessions Judge by Annexure 1 order will not be a bar for considering this application and passing appropriate orders in accordance with law. With the above direction and observation, the petition is disposed of. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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