

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

WEDNESDAY, THE 10TH DAY OF AUGUST 2022 / 19TH SRAVANA, 1944

BAIL APPL. NO. 1464 OF 2022

Crime No.12 of 2021 of Minicoy Police Station, Union

Territory of Lakshadweep

PETITIONER/ACCUSED:

DR K P HAMSAKOYA
AGED 61 YEARS, S/O.MOHAMMED KOYA KAKKAILLAM (LATE)
CHIEF MEDICAL OFFICER (NMSG), AND MEDICAL OFFICER IN
CHARGE, GOVERNMENT HOSPITAL, MINICOY ISLAND, UNION
TERRITORY OF LAKSHADWEEP-682 559 (PRESENTLY UNDER
SUSPENSION AND ASSIGNED HEAD QUARTERS AT KAVARATTI),
PERMANENTLY RESIDING AT KUNHIPAPPADA HOUSE, KALPENI
ISLAND, UNION TERRITORY OF LAKSHADWEEP- 682 557.

BY ADVS.

AJIT G ANJARLEKAR

G.P.SHINOD

GOVIND PADMANAABHAN

ATUL MATHEWS

RESPONDENTS/COMPLAINANT STATE AND DEFACTO COMPLAINANT:

- 1 UNION TERRITORY OF LAKSHADWEEP
REPRESENTED BY ITS ADMINISTRATOR , KAVARATHI,
LAKSHADWEEP -682 555.
- 2 THE STATION HOUSE OFFICER, MINICOY POLICE STATION,
MINICOY ISLAND,
UNION TERRITORY OF LAKSHADWEEP - 682 559.

BY ADVS.
SHRI.SAJITH KUMAR V., SC, LAKSHADWEEP ADMINISTRATION

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
10.08.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

VIJU ABRAHAM, J.

.....
B.A.No. 1464 of 2022
.....

Dated this the 10th day of August, 2022

ORDER

This is an application for anticipatory bail.

2. The petitioner is the sole accused in Crime No.12 of 2021 of Minicoy Police Station, Union Territory of Lakshadweep registered alleging commission of offences punishable under Sections 505 (1) (b), 505 (2) and 500 of the Indian Penal Code and Section 66 (A) (b) of the Information Technology Act, 2000.

3. The case of the prosecution is that the petitioner posted defamatory articles in facebook against officers of the Administration of Lakshadweep whereby a negative effect was caused amongst the public against the Administration and and thus committed the abovesaid offences.

4. Petitioner submits that he has been falsely implicated in the abovesaid crime and even offence punishable under Section 66 (A) (b) of the Information Technology Act, 2000 is also invoked. Petitioner submits that he is one of the seniormost doctors serving the Lakshadweep Administration and that he is presently under suspension. He further submits that the allegations against him are all false. His further submits

that the allegation that he posted defamatory articles in facebook against officers of the Administration of Lakshadweep whereby a negative effect was caused amongst the public against the Administration is absolutely without any basis. Petitioner contended that the offence under Section 500 IPC cannot be registered without a complaint being filed by a person who has been defamed.

5. Learned Standing Counsel for the Lakshadweep Administration upon instructions submitted that the offence under Section 66 (A) (b) of the Information Technology Act, 2000 is incorporated by a mistake and the same has already been deleted. Learned Standing Counsel further submits that petitioner is accused in another crime, ie., Crime No.10 of 2020 of Minicoy Police Station. Learned Standing Counsel also submits that custodial interrogation of the petitioner is necessary as the mobile phone used by the petitioner is to be recovered. To the said contention petitioner submits that he is ready to co-operate with the investigation and surrender the mobile phone.

6. Considering the facts and circumstances of the case and the nature of the allegations, I am inclined to grant pre-arrest bail to the petitioner but on stringent conditions.

Therefore, the bail application is disposed of with the following directions. The petitioner shall surrender before the investigating officer on 29.08.2022 and shall co-operate with the

investigation. In the event of arrest of the petitioner in connection with Crime No.12 of 2021 of Minicoy Police Station, Union Territory of Lakshadweep, he shall be produced before the jurisdictional Magistrate and shall be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.
- (ii) He shall co-operate with the investigation and make himself available for interrogation whenever required;
- (iii) He shall not tamper with any evidence;
- (iv) He shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer;
- (v) He shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating Officer in Crime No.12 of 2021 of Minicoy Police Station, Union Territory of Lakshadweep may file an application before jurisdictional court for cancellation of bail.

It is made clear that it is within the power of the police to investigate the matter and if necessary to effect recoveries on the information if any given by the petitioner even when the petitioner is on

bail as per the judgment of the Apex Court in **Sushila Aggarwal and others v. State (NCT of Delhi) and another (2020 (1) KHC 663)**.

Sd/-

VIJU ABRAHAM
JUDGE

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