

# VERDICTUM.IN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 31<sup>ST</sup> DAY OF MAY 2023 / 10TH JYAISHTA, 1945

BAIL APPL. NO. 1559 OF 2023

APPLICATION FOR ANTICIPATORY BAIL - CRIME NO.410/200 OF  
VANDIPERIYAR POLICE STATION, IDUKKI DISTRICT, REGISTERED FOR THE  
OFFENCES PUNISHABLE UNDER SECTION 304 OF IPC

PETITIONER/ACCUSED NO.2:

MUKESH @ NANDU  
AGED 23 YEARS  
MUKESH ELLATHIL HOUSE, THANKAMALA PUTHUVAL BHAGAM,  
VANDIPERIYAR KARA, PERIYAR VILLAGE, IDUKKI DISTRICT,  
PIN - 685533.

BY ADVS.  
K.S.ARUNDAS  
ABIJITH.K  
AMBILY JOSHY

RESPONDENT/STATE:

STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM, PIN - 682031  
BY ADV PUBLIC PROSECUTOR

SMT.T V NEEMA, SENIOR PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

“C.R”

**A. BADHARUDEEN, J.** =====

*B.A.No.1559 of 2023*

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*Dated this the 31<sup>st</sup> day of May, 2023*

***ORDER***

This is an application for anticipatory bail filed under Section 438 of the Code of Criminal Procedure, by the 2<sup>nd</sup> accused in Crime No.410 of 2022 of Vandiperiyar Police Station, Idukki.

2. It is submitted by the learned counsel for the petitioner that at the time of admission of this anticipatory bail application this Court granted interim bail. In view of the interim order, the petitioner surrendered and after his arrest, he was released on interim bail. Therefore, the anticipatory bail has become infructuous and this petition is not pressed.

3. In view of the above submission, this petition is liable to be dismissed as not pressed. Accordingly, this petition is dismissed as not pressed. Consequently, the interim order granting bail stands vacated

and the bail bond executed shall stand ceased to be in existence w.e.f 31.05.2023.

4. However, the question arises for consideration is whether a person, who was granted interim bail after executing the bond in tune with the interim order of bail, can bank upon the interim bail order to submit that the main bail application has become infructuous. In this context, it is relevant to note that as per the interim order granted by this Court dated 05.05.2023 also, it has been specifically stated that the interim order would be in force only till 31.05.2023. Paragraph 3 of the above order reads as under:

*“3. This interim order will be in force only till 31.05.2023. I make it clear that, the petitioner/s will not get any advantage because of this order at the time of final hearing and the prosecutor is free to argue for custodial interrogation if necessary, at that time.”*

Therefore, it has to be held that in view of the dismissal of the anticipatory bail application by not pressing the same, the order of interim bail as well as the bond executed thereof stand effaced and the police is free to arrest the petitioner and proceed against the petitioner in accordance with law, in this case involving very serious offence. It is held that since the petition has been not pressed and dismissed and the

interim bail granted stands vacated, the petitioner is relegated back to the date of filing of the anticipatory bail application and it is ordered that the petitioner is not on bail as of now and the police is at liberty to arrest the petitioner and proceed with the investigation in this matter, since the allegations are very serious.

*Sd/-*

**(A. BADHARUDEEN, JUDGE)**

*rtr/*