



2024:KER:96327

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 18<sup>TH</sup> DAY OF DECEMBER 2024 / 27TH AGRAHAYANA,

1946

BAIL APPL. NO. 2879 OF 2024

CRIME NO.712/2023 OF Vazhakulam Police Station, Ernakulam

AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl. NO.1088  
OF 2024 OF HIGH COURT OF KERALAPETITIONER/S:

ANILS,  
AGED 40 YEARS  
S/O STEPHEN D, JOYI VILASOM,NELLIMUKKU  
JUNCTION,PADAPPAKKARA, PERAYAM, KOLLAM, PIN -  
691601

BY ADV M.L.SURESH KUMAR

RESPONDENT/S:

- 1 STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF  
KERALA, PIN - 682031
- 2 DIVAKARAN  
S/O NARAYANAN, PARACHALIL HOUSE, PARATHOD DESAM,  
PANIKKANKUDI P.O, KONNATHADI VILLAGE ,IDUKKI  
IMPLEADED AS R2 VIDE ORDER DATED 26-11-24 IN CRL MA  
3/24
- 3 JANAKI GOVINDAN  
W/O GOVINDAN , KOLLIYOTTIL HOUSE, MANIYATHADAM  
CHERI, VAZHAKKULAM P.O, MANJALLOOR VILLAGE,  
MUVATTUPUZHA, ERNAKULAM DISTRICT IMPLEADED AS R3  
VIDE ORDER DATED 26-11-24 IN CRL MA 3/24
- 4 SHAHUL HAMEED  
S/O MUHAMMED, 'THOTTIPARAMBIL HOUSE', MADAKKATHANAM



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**P.O, ERNAKULAM DISTRICT IMPEADED AS R4 VIDE ORDER  
DATED 26-11-24 IN CRL MA 3/24**

**PP.SRI.AJITH VISWANATHAN**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
18.12.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**C.S.DIAS,J****Bail Application No.2879 of 2024****Dated this the 18<sup>th</sup> day of December, 2024****ORDER**

The application is filed under Section 438 of the Code of Criminal Procedure, 1973('Code', for short), for an order of pre-arrest bail.

2. The petitioner is the 3<sup>rd</sup> accused in Crime No.712/2023 of the Vazhakulam Police Station, Ernakulam, registered against three accused persons for allegedly committing the offences under punishable under Sections 406, 420 and 34 of the Indian Penal Code.

3. The essence of the prosecution case is that: the accused manipulated the single digit lottery tickets by putting a fake number and sold it to the de facto complainant and unlawfully gained Rs.2,000/-. Thus, the accused have committed the above offences.



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4. Heard; Sri. M.L.Suresh Kumar, the learned counsel appearing for the petitioner, Sri.Ajith Viswanathan, the learned Senior Public Prosecutor and Sri.Paul Antony, the learned counsel for the additional respondents 2 to 4.

5. The learned counsel for the petitioner and the learned counsel for the respondents 2 to 4 submitted that the subject matter in dispute between the parties has been amicably settled out of Court. The additional respondents 2 to 4 have sworn Annexures A5 to A7 affidavits stating that they have no subsisting grievance against the petitioner. Therefore, they have no objection in the application being allowed.

On a consideration of the facts and the materials on record especially taking into account the fact that the subject matter in dispute between the parties has been settled, I am convinced that the petitioner has made out valid grounds to invoke the discretionary jurisdiction of



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this Court under Section 438 of the Code. Hence, I am inclined to allow the application.

In the result, the application is allowed subject to the following conditions:

(i) The petitioner is directed to surrender before the Investigating Officer within 10 days from today.

(ii) In the event of arrest of the petitioner, the Investigating Officer shall release the petitioner on bail on him executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties for the like amount each;

(iii) The petitioner shall appear before the Investigating Officer for interrogation, as and when directed by the Investigating Officer.

(iv) The petitioner shall not directly or indirectly make any inducement, threat or procure to any person acquainted with the facts of the case so as to dissuade him from



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disclosing such facts to the court or to any Police Officer or tamper with the evidence in any manner, whatsoever;

(v) In case of violation of any of the conditions mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

(vi) Applications for deletion/modification of the bail conditions shall also be filed before the court below.

(vii) Needless to mention, it would be well within the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in ***Sushila Aggarwal v. State (NCT of Delhi) And another*** [2020 (1) KHC 663].

(viii) The observations made in this order are only for the purpose of considering the application and the same shall



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not be construed as an expression on the merits of the case to be decided by competent Courts.

Sd/-

**C.S.DIAS, JUDGE**

rkc/18.12.24



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APPENDIX OF BAIL APPL. 2879/2024

## PETITIONER ANNEXURES

Annexure A1	THE TRUE COPY OF THE FIR NO.712/2023 OF VAZHAKULAM POLICE STATION
Annexure A2	TRUE COPY OF THE JUDGEMENT IN WP(C)42715 DATED 12-1-2024
Annexure A3	TRUE COPY OF THE JUDGMENTIN BA 1088/2024 DATED 19-2-2024
Annexure 4	ORDER DATED 19-02-2024 IN BAIL APPL.1088/2024 ON HIGH COURT
Annexure A5	AFFIDAVIT DATED 11-10-2024 SWORNED BY THE IST DEFACTO COMPLAINANT NAMED DIVAKARAN
Annexure A6	AFFIDAVIT DATED 11-10-2024 SWORNED BY THE 2ND DEFACTO COMPLAINANT NAMED JANAKI GOVINDAN
Annexure A7	AFFIDAVIT DATED 11-10-2024 SWORNED BY THE 3RD DEFACTO COMPLAINANT NAMED SHAHUL HAMEED