



2024:KER:91501

BAIL APPL. NO. 2964 OF 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 4TH DAY OF DECEMBER 2024 / 13TH AGRAHAYANA,

1946

BAIL APPL. NO. 2964 OF 2024

CRIME NO.308/2024 OF Vilappilssala Police Station,
Thiruvananthapuram

PETITIONERS/ACCUSED:

- 1 SHEEBA.M,
AGED 48 YEARS
D/O BALASUBRAMANIAN, OMPEDATHIL HOUSE, GANDHI
NAGAR, TANALUR, MALAPPURAM DISTRICT, PIN - 676307
- 2 NAZAR K.P,
AGED 45 YEARS
S/O MOIDHEEN KUTTY, KADAVANDYPURAKKAL HOUSE,
PUTHIYAKADAPPURAM P.O., PARIYAPURAM, MALAPPURAM,
PIN - 676302

BY ADV LATHEESH SEBASTIAN

RESPONDENT/STATE & COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031
SRI.PRASANTH MP, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
04.12.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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P.V.KUNHIKRISHNAN, J.

B.A.No.2964 of 2024

Dated this the 04th day of December, 2024

ORDER

This Bail Application is filed under Section 438 of the Code of Criminal Procedure.

2. Petitioners are the accused in Crime No.308/2024 of Vilappilssala Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 380 and 454 read with Section 34 of the Indian Penal Code.

3. The prosecution case is that the 1st petitioner came into contact with the husband of the defacto complainant through facebook and on the instruction of the 1st petitioner, the 2nd petitioner opened the rental house of the defacto complainant on 24.03.2024 and taken the key of the Tata Tigo car bearing Registration No.KL-16/V-2685 parked in the car



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porch of the house and stolen the car and thereby committed the offence.

4. Heard counsel for the petitioners and the Public Prosecutor.

5. When this bail application came up for consideration on 16.04.2024, this Court passed the following order:

“It is true that the allegations against the petitioners are very serious. This is a case which is to be heard in detail on merit after perusing the records. The counsel for the petitioners insist for an interim order.

2. I think in the facts and circumstances of the case, an interim order for the grant of anticipatory bail can be issued in this case for a limited period. If the petitioners are arrested in connection with the above crime, he shall be released on bail on executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the officer concerned. During the above period, the investigating officer is free to summon the petitioners for interrogation after issuing notice under Sec.41A Cr.P.C. The investigation of the case also can be continued.

3. This interim order will be in force only till



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24.05.2024. I make it clear that, the petitioners 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.”

6. Based on the same, the petitioners surrendered before the Investigating Officer and interrogation is already over. Moreover, the alleged theft article is already seized. Considering the facts and circumstances, I think custodial interrogation of the petitioners is not necessary.

7. Moreover, it is a well accepted principle that the bail is the rule and the jail is the exception. The Hon'ble Supreme Court in **Chidambaram. P v Directorate of Enforcement [2019 (16) SCALE 870]**, after considering all the earlier judgments, observed that, the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.

8. Recently the Apex Court in **Siddharth v State of Uttar Pradesh and Another [2021(5)KHC 353]** considered the point in detail. The relevant paragraph of the



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above judgment is extracted hereunder:

“12. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. (Joginder Kumar v. State of UP and Others (1994 KHC 189: (1994) 4 SCC 260: 1994 (1) KLT 919: 1994 (2) KLJ 97: AIR 1994 SC 1349: 1994 CriLJ 1981)) If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why



there should be a compulsion on the officer to arrest the accused.”

9. In **Manish Sisodia v. Central Bureau of Investigation [2023 KHC 6961]**, the Apex Court observed that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case.

10. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following directions:

1. The petitioners shall appear before the Investigating Officer within two weeks from today and shall undergo interrogation.
2. After interrogation, if the Investigating Officer propose to arrest the petitioners, they shall be released on bail on executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the arresting officer



concerned.

3. The petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.
4. Petitioners shall not leave India without permission of the jurisdictional Court.
5. Petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
6. If any of the above conditions are violated by the petitioners, the jurisdictional Court can cancel the bail in accordance to law,



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even though the bail is granted by this Court. The prosecution and the victim are at liberty to approach the jurisdictional Court to cancel the bail, if any of the above conditions are violated.

JV

sd/-
P.V.KUNHIKRISHNAN
JUDGE



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APPENDIX OF BAIL APPL. 2964/2024

PETITIONER ANNEXURES

- | | |
|-------------------|--|
| Annexure 1 | TRUE CITIZEN COPY OF THE FIR IN CRIME
NO.308/2024 OF VILAPPILSALA POLICE
STATION, THIRUVANANTHAPURAM DISTRICT |
| Annexure 2 | TRUE COPY OF THE AGREEMENT EXECUTED
BETWEEN THE 1ST PETITIONER AND THE
MOTHER OF THE DEFACTO COMPLAINANT DATED
13.11.2023 |
| Annexure 3 | TRUE COPY OF THE COMPLAINT OF THE 1ST
PETITIONER BEFORE THE STATION HOUSE
OFFICER OF KANJAR POLICE STATION DATED
13.02.2024 |
| Annexure 4 | TRUE COPY OF THE RECEIPT DATED
14.02.2024 ISSUED BY THE STATION HOUSE
OFFICER OF KANJAR POLICE STATION |