



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 17TH DAY OF DECEMBER 2024 / 26TH AGRAHAYANA, 1946

BAIL APPL. NO. 10029 OF 2024

CRIME NO.603/2024 OF TOWN WEST POLICE STATION, THRISSUR

PETITIONER(S)/ACCUSED 1 & 2:

- 1 MINI.S
 AGED 57 YEARS
 W/O. SUBRAHMANIAN, SREEDURGA BHAVAN, PLAKKATT
 LANE, NAIKKANAL, THRISSUR, PIN - 680001
- 2 VISHNU GANDHARVA
 AGED 27 YEARS
 S/O. SUBRAHMANIAN, SREEDURGA BHAVAN, PLAKKATT
 LANE, NAIKKANAL, THRISSUR, PIN - 680001

BY ADV. B.SABITHA (DESOM)

RESPONDENT(S)/STATE:

- 1 STATE OF KERALA
 REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
 KERALA ERNAKULAM, PIN - 682031
- 2 NITHA.P.M., AGED 36 YEARS
 D/O. MANOHARAN.P.G, PERUNTHURUTHY HOUSE,
 PARTHASARATHI LANE, OLARIKKARA , THRISSUR,
 PIN - 680012

BY ADV.
SRI.NOUSHAD K A, SENIOR PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17.12.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



P.V.KUNHIKRISHNAN, J

B.A.No. 10029 of 2024

Dated this the 17th day of December, 2024

O R D E R

This Bail Application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita.

2. Petitioners are the accused in Crime No.603/2024 of Town West Police Station, Thrissur. The above case is registered against the petitioners alleging offences punishable under Sections 406 & 420 r/w 34 IPC.

3. The prosecution case is that the petitioners assured that the property including the house in the name of the 1st accused will sold to the de-facto complainant, who is working in America. By giving such a false promise the petitioners collected an amount of Rs. 95,00,000/- from the de-facto complainant from the month of October 2017 to January 2022 by concealing the fact that there was an



attachment on the property. When the de-facto complainant insist for executing the sale deed, the accused refused to do so. Hence it is alleged that the accused committed the afore said offences.

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

5. Counsel for the petitioners submitted that, even if the entire allegations are accepted, it is only a monetary dispute and no criminal offence is made out. The counsel submitted that the petitioners are ready to abide any conditions if this Court grant them bail.

6. The Public Prosecutor opposed the bail application. But the Public Prosecutor submitted that no criminal antecedents are alleged against the petitioners.

7. This Court perused the prosecution case. Whether it amounts to any monetary dispute or whether any criminal offence is made out in the facts and circumstances of the case is a matter to be investigated by the Investigating Officer. I don't want to make any observation about the same.



But the custodial interrogation of the petitioners may not be necessary. I think the petitioners can be released on bail after imposing stringent conditions. There can be a direction to the petitioners to appear before the Investigating Officer so that the investigation can be completed.

8. 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.

9. 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 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."

10. 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.

11. 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 them 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, 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.

Sd/-

P.V.KUNHIKRISHNAN, JUDGE

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