



2025:KER:11792

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 12TH DAY OF FEBRUARY 2025/23RD MAGHA, 1946

BAIL APPL. NO. 10426 OF 2024

CRIME NO.871/2024 OF KAIPAMANGALAM POLICE STATION,

THRISSUR

AGAINST THE ORDER DATED 04.12.2024 IN CR NO.871 OF 2024

OF JUDICIAL MAGISTRATE OF FIRST CLASS, KODUNGALLUR

PETITIONER/SOLE ACCUSED:

HAFEEZ MUHAMMED, S/O.HAMEED,
AGED 22 YEARS, PANIKKASSERY HOUSE,
CHANTHRAPPINNI DESOM, CHANTHRAPPINNI P.O.,
KODUNGALLORE TALUK, THRISSUR DISTRICT, PIN -
680 687.

BY ADVS.
N.L.BITTO
MITHUL T ANTO

RESPONDENT/STATE:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031.

BY ADV
G.SUDHEER, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 12.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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P.V.KUNHIKRISHNAN, J

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Dated this the 12th day of February, 2025

O R D E R

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

2. Petitioner is the sole accused in Crime No.871 of 2024 of Kaipamangalam Police Station, Thrissur. The above case is registered against the petitioner alleging offences punishable under Sections 420 and 406 of the Indian Penal Code, 1860 (for short 'IPC').

3. The prosecution case is that on 08.03.2024, the petitioner borrowed two vehicles bearing registration Nos. KL-47-K-3412 Toyota Urban Cruiser and KL-47-K-7006 Mahendra Thar jeep, for the marriage function of his relative, and later failed to return it and



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thus cheated the defacto complainant.

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

5. When this bail application came up for consideration before this Court on 31.01.2025, this passed the following order:-

“The petitioner will appear before the investigating officer in Crime No. 871/2024 of Kaipamangalam Police Station on 04.02.2025. The investigating officer can interrogate the petitioner. But, the petitioner shall not be arrested. The investigating officer will submit a report before this Court, after interrogation.”

Based on the above order, the petitioner surrendered before the Investigating Officer and he was interrogated.

6. Public Prosecutor submitted that further custodial interrogation is not necessary and there may be a direction to the petitioner to co-operate with the investigation.



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7. In the light of the above, the bail can be granted to the petitioner after imposing stringent conditions.

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



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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



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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.

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 petitioner 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 petitioner, he shall be released on bail on executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand



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only) with two solvent sureties each for the like sum to the satisfaction of the arresting officer concerned.

3. The petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner 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. Petitioner shall not leave India without permission of the jurisdictional Court.

5. Petitioner shall not commit an offence similar to the offence of which he is



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accused, or suspected, of the
commission of which he is suspected.

6. 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].

7. If any of the above conditions are violated by the petitioner, 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



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to approach the jurisdictional Court to
cancel the bail, if any of the above
conditions are violated.

Sd/-

**P.V.KUNHIKRISHNAN
JUDGE**

AMR