IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 27TH DAY OF JULY 2020 / 5TH SRAVANA, 1942

Bail Appl..No.765 OF 2020

AGAINST THE ORDER/JUDGMENT IN CRMC 61/2020 DATED 20-01-2020 OF DISTRICT COURT & SESSIONS COURT, ERNAKULAM

CRIME NO.1803/2019 OF Aluva Police Station , Ernakulam

PETITIONER/1ST ACCUSED:

AMINA V.A.
AGED 58 YEARS
W/O.MEETHIAN KUNJU, VALAPPUNGAL HOUSE, THOTTUMUGHAM P.O., P.O.ALUVA-683 105, SENIOR BRANCH MANAGER (UNDER SUSPENSION), EMPLOYEE NO.1725, KSFE LTD., CHERAI BRANCH.

BY ADVS.
SRI.R.SANJITH
SMT.C.S.SINDHU KRISHNAH

RESPONDENTS/COMPLAINANT:

1. **STATE OF KERALA**
   REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031.

2. **SUB INSPECTOR OF POLICE,**
   ALUVA EAST POLICE STATION, ERNAKULAM RURAL-683 101.

3. **KSFE LIMITED,**
   BHADRATHA, PB NO.510, MUSEUM ROA, THRISSUR,
   REPRESENTED BY BRANCH MANAGER, ALUVA II BRANCH,
   PUTHUSSERY COMPLEX, ALUVA, ERNAKULAM RURAL, KERALA-680 020.

R3 BY SRI.SALIL NARAYANAN K.A., SC, KSFE LTD.

OTHER PRESENT:

SRI.AJITH MURALI, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27.07.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A.No.765 of 2020

Dated this the 27th day of July, 2020

O R D E R

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. Petitioner is the first accused in Crime No. 1803 of 2019 of Aluva East Police Station. The above case is registered against the petitioners and others alleging offences punishable under Sections 468, 471, 408, 420 r/w 34 of IPC.

3. The prosecution case is that the petitioner was the Senior Branch Manager of Aluva Branch of the K.S.F.E. She was in charge of that branch for the period from 2012 to 2016. According to the prosecution, second accused is a clerk of the K.S.F.E, Aluva Branch. Accused Nos.3 and 4 are agents working in the K.S.F.E., Aluva branch. According to the prosecution, the petitioner along with the remaining accused with intention

to cheat, colluded together and collected signed blank papers and signed unfilled application forms from various subscribers of chits and forged their signatures and also misusing the copy of the documents furnished by them as security, subscribed 192 chits in the name of others and misappropriated a total sum of Rs.5,38,21,116/-. Therefore it is alleged that the accused committed the offences.

4. Heard the counsel for the petitioner and the learned Public Prosecutor. The defacto complainant who was also impleaded in this Bail Application. I heard Adv. Salil Narayanan also for the defacto complainant.

5. The counsel for the petitioner submitted that she has not committed any offence. When she was about to retire from service, a notice is issued and a false case is registered against her. She submitted a detailed reply to the K.S.F.E., about the charge levelled against her. The counsel for the petitioner submitted that custodial interrogation of the petitioner is not necessary in this case.

6. The learned Public Prosecutor submitted that the

petitioner is the Senior Manager of the K.S.F.E., She is involved in a misappropriation case in which the amount misappropriated is about 5 crores. The Public Prosecutor seriously opposed the Bail Application.

7. The counsel for the defacto complainant also supported the contentions of the Public Prosecutor. The counsel submitted that the petitioner misappropriated and forged 192 chit documents. The counsel seriously opposed the Bail Application.

8. This Bail Application was filed on 28.1.2020. This Court passed an interim order not to arrest the petitioner and that order is even now continuing. The case of the prosecution and the the defacto complainant is that, there is allegation against the petitioner for misappropriation and forgery. It is an admitted fact that there are documentary evidence to show that there is misappropriation and forgery. For that purpose custodial interrogation of the petitioner may not be necessary. There can be a direction to the petitioner to surrender before the Investigating Officer and to co-operate with the

investigation. Since the bail application is pending before this Court from 28.1.2020 the investigation of the case is also delayed. Hence, this Bail Application can be allowed on stringent conditions.

9. Moreover, considering the need to follow social distancing norms inside prisons so as to avert the spread of the novel Corona Virus Pandemic, the Hon'ble Supreme Court in **Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition(C) No.1 of 2020)** and a Full Bench of this Court in **W.P(C)No.9400 of 2020** issued various salutary directions for minimizing the number of inmates inside prisons.

10. 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.

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 petitioner shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioner she shall be released on bail executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer concerned.

3. The petitioner shall appear before the Investigating Officer as and when required. The petitioner shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the

evidence.

4. The petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing in the wake of Covid 19 pandemic.

5. The petitioner shall appear before the Investigating Officer on all Mondays and Fridays at 10 a.m., till final report is filed.

6. If any of the above conditions are violated by the petitioner/petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

Sd/-

P.V.KUNHIKRISHNAN, JUDGE

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