IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 15TH DAY OF DECEMBER 2020 / 24TH AGRAHAYANA, 1942

Bail Appl..No.8210 OF 2020

CRIME NO.2059/2020 OF Ochira Police Station , Kollam

PETITIONERS:

1 **RANJITH.G**
AGED 33 YEARS
SREESAILAM, VALIYAKULANGARA, OACHIRA P.O. KOLLAM,
PIN-690526

2 **SHEEJA.S**
AGED 36 YEARS
KARALIL, VADAKKUMURI KIZHAKKU, MANAPALLY PO,
MANAPALLY, KOLLAM
PIN-690574

BY ADV. SRI.ARUL MURALIDHARAN

RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,
PIN-682031

SRI.AJITH MURALI, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.8210 of 2020

Dated this the 15th day of December, 2020

O R D E R

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

2. Petitioners are the 1st and 4th accused in Crime No.2059 of 2020 of Ochira Police Station, Kollam. The above case is registered against the petitioners alleging offences punishable under Sections 294(b), 323, 498A, 506 r/w.34 IPC.

3.The prosecution case is that the petitioners mentally and physically harassed the de facto complainant demanding more money and gold. The 1st petitioner is the husband of the de facto complainant and the 2nd petitioner is the sister of the 1st petitioner.

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

5. The counsel for the petitioners submitted that the case

is registered based on a private complaint filed by the de facto complainant before the jurisdictional Court which was forwarded under Section 156(3) Cr.P.C. The counsel submitted that the allegation against the petitioners are not correct and a matrimonial dispute is pending before the Family Court. The counsel submitted that the 1st petitioner already moved the Family Court for divorce and the same is numbered as O.P No.553 of 2020. The counsel submitted that the 2nd and 3rd accused already released on bail from this Court as per order dated 23rd February, 2020 in B.A No.7607 of 2020. The counsel submitted that the petitioners are ready to abide any conditions, if this Court grant them bail.

6.The learned Public Prosecutor opposed the bail application. The Public Prosecutor submitted that there is physical assault from the side of the 1st petitioner towards the de facto complainant. The Public Prosecutor seriously opposed the bail application of the 1st petitioner because in the facts and circumstances, according to the Public Prosecutor, the offence under Section 498A IPC is made out against him.

7. It is true that the allegation against the petitioners are very serious, especially against the 1st petitioner. I perused the statement in the bail application also. According to me, that itself amounts to harassment. I do not want to make any observation about the merit of the case. The allegation is that the petitioners committed matrimonial offence. The matrimonial relationship is even now in existence, even though an application for divorce is pending before the Family Court. The case is registered based on a private complaint filed before the jurisdictional court which was forwarded under Section 156(3) Cr.P.C. Accused Nos.2 and 3 were already released on bail by this Court as per order dated 23rd February, 2020 in B.A No.7607 of 2020.

8. Considering the entire facts and circumstances of the case, I think 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 petitioners 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 petitioners, they 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 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. The petitioners 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.

7. 1st petitioner shall appear before the Investigating Officer on all Mondays and Fridays for a period of three months.

8. 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.

Sd/-

P.V.KUNHIKRISHNAN, JUDGE

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