IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 17TH DAY OF DECEMBER 2020 / 26TH AGRAHAYANA, 1942

Bail Appl..No.8237 OF 2020

CRIME NO.345/2020 OF Peringome Police Station , Kannur

PETITIONER/ACCUSED:

SHEESHMU K.V
AGED 31 YEARS
SON OF. RAJAN K.,
KANISAN VALAPPIL, P.O.KANKOLE, KANNUR DISTRICT
PIN-670307

BY ADV. SRI.M.SASINDRAN

RESPONDENT/S:

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

2 **STATION HOUSE OFFICE**
PERINGOME POLICE STATION
KANNUR DISTRICT
(CRIME NO.345 OF 2020).
PIN-670353

OTHER PRESENT:

SRI AJITH MURALI PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A.No.8237 of 2020

Dated this the 17th day of December, 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 accused in Crime No.345 of 2020 of Peringome Police Station, Kannur. The above case was originally registered under Section 174 Cr.P.C. Subsequently, the offence under Section 306 IPC is also added.

3. The prosecution case is that, one Prameela, wife of Rajeevan committed suicide on 1.8.2010. It is alleged that she committed suicide because of the abetment from the side of the petitioner.

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

5. The counsel for the petitioner submitted that even if the entire allegations are accepted, no offence under Section 306 IPC is *prima facie* made out against the petitioner. The counsel also submitted that in the suicide note, which is alleged to be seized, there is no allegation against the petitioner. The counsel submitted that when the petitioner filed a bail application earlier as B.A.No.5501/2020, the Public Prosecutor submitted that he is not arrayed as an accused and now the petitioner is arrayed as an accused in this case. The counsel submitted that the petitioner is ready to abide any conditions if this Court grant him bail.

6. The learned Public Prosecutor opposed the bail application. The Public Prosecutor submitted that, now the petitioner is arrayed as an accused in this case. The Public Prosecutor submitted that the custodial interrogation of the petitioner is necessary.

7. After hearing both sides, I think this Bail Application can be allowed on stringent conditions. It is a fact that a lady committed suicide. The question before this Court is whether

there is any criminal offence made out against the petitioner especially an offence under Section 306 IPC. I don't want to make any observation on the merit of the case. These are matters to be investigated by the investigating officer. Considering the entire facts and circumstances of the case, I think, this bail application can be allowed on stringent conditions.

8. 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.

9. 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.

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 petitioner shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.
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> 2. After interrogation, if the Investigating Officer propose to arrest the petitioner, he 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.
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> 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.
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> 4. Petitioner shall not leave India without permission of the Court.

5. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

6. 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.

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.

Sd/-

P.V.KUNHIKRISHNAN, JUDGE

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