IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 16TH DAY OF APRIL 2024 / 27TH CHAITHRA, 1946

BAIL APPL. NO. 2871 OF 2024

CRIME NO.381/2024 OF Anchal Police Station, Kollam

PETITIONER/ACCUSED:

1 RAJAN V,
AGED 56 YEARS,
S/O (LATE) VIDYADHARAN, AMRITHA BHAVAN, CHORANADU,
VADAMON(P.O) ANCHAL. KOLLAM DT., PIN - 691306

2 ANIL KUMAR .R, AGED 50 YEARS,
S/O (LATE) RAVEENDRAN, RAVI SADANAM, VADAMON /P.O
ANCHAL. KOLLAM DT., PIN - 691306

BY ADV MRINUAAL

RESPONDENT/S:

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

2 THE STATION HOUSE OFFICER
ANCHAL POLICE STATION, KOLLAM RURAL, PIN - 691306

PP; SEENA C

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.2871 of 2024

Dated this the 16th day of April, 2024

O R D E R

This Bail Application filed under Section 438 of Criminal Procedure Code (Cr.P.C.) .

2. The petitioners are the accused in Crime No.381/2024 of Anchal Police Station, Kollam. The above case is registered against the petitioners alleging offences punishable under Section 294(b), 323, 324, 326 r/w 34 IPC.

3. The prosecution case is that on 27/03/2024 at 7.30 pm, the petitioners, due to previous animosity towards the defacto complainant, seeing the defacto complainant walking with his dog through the front portion of the house of the 2nd accused and abused the defacto complainant with abusive language. It is also alleged that the accused beat with right palm on the left cheek of the defacto complainant and the 2nd accused stamped with his leg on the defacto complainant. Thereafter, the first accused physically abused the son of the defacto complainant who came there in a

Motor Bike by hitting with an iron mass on the face of the son of the defacto complainant. Hence it is alleged that the accused committed the offences.

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

5. The counsel for the petitioners submitted that this is a case and the counter case, Crime No.382/2024 is the counter case, which registered under Section 447, 324, 341 r/w 34 IPC. It is submitted that the allegation against the petitioners are not correct. The Public Prosecutor opposed the bail application and submits that the victim sustained grievous hurt.

6. After hearing both sides, I think this bail application can be allowed after imposing stringent conditions. It is a case and counter case, there are two version about the same incident, which version to be accepted can be decided only at the time of trial. The custodial interrogation of the petitioners may not be necessary in the facts and circumstances of the case. Therefore, I am of the considered opinion that this bail application can be allowed after imposing stringent conditions.

6. 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.

7. 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. Petitioners 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 proposes 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 officer concerned;
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> 3. Petitioners 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 her from disclosing such facts to the Court or to any police officer;
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> 4. Petitioners shall not leave India without permission of the jurisdictional Court;
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> 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.

7. The petitioners shall appear before the Investigating Officer on all Mondays and Fridays at 10 a.m till final disposal of the case.

8. 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 petitioners even while the petitioners are 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)**

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

msp

APPENDIX OF BAIL APPL. 2871/2024

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE FIR DTD 29/03/2024 IN CR NO 381/24 OF ANCHAL POLICE STATION
Annexure A2	TRUE COPY OF THE FIR DTD 29/03/2024 IN CR 382/24 OF ANCHAL POLICE STATION