



2025:KER:27692

BAIL APPL. NO. 3690 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 1ST DAY OF APRIL 2025 / 11TH CHAITHRA, 1947

BAIL APPL. NO. 3690 OF 2025

CRIME NO.147/2025 OF Harippad Police Station, Alappuzha

AGAINST THE ORDER/JUDGMENT DATED 10.03.2025 IN CRMC
NO.242 OF 2025 OF DISTRICT & SESSIONS COURT, ALAPPUZHA

PETITIONER/ACCUSED NO.3:

THEJAS KRISHNA
AGED 19 YEARS
S/O. AJAYA KUMAR, THUNDUPARAMBIL, SUMATHRA
COLONY, KANNUKALIPALAM, MALANKARA, KARUVATTA
P.O., ALAPPUZHA DISTRICT, PIN - 690514

BY ADVS. OMAR SALIM
K. REMIYA RAMACHANDRAN
P.ABDUL NISHAD
AJISHA M.S.
A.N.BIJU
ASHISH ABY DAVID

RESPONDENT/STATE:

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

SRI NOUSHAD KA, SR PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
01.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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P.V.KUNHIKRISHNAN, J.

B.A.No.3690 of 2025

Dated this the 01st day of April, 2025

ORDER

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

2. Petitioner is the 3rd accused in Crime No.147/2025 of Haripad Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 79, 296(b), 333, 115(2), 118(1), 110, 126(2), 324(2) and 3(5) of the Bharatiya Nyaya Sanhita (for short, BNS).

3. The prosecution case is that, due to an animosity towards the defacto complainant that the 1st accused abused the wife and mother of defacto complainant, when defacto complainant questioned about the same, on 09.02.2025 at 10:30 p.m., accused criminally trespassed into the sit out of the house of defacto complainant named Muttiyil House in Karuvatta North Muri, in prosecution of their common intention to bodily hurt to defacto complainant and his parents, the 2nd accused pulled down the mother of defacto complainant, Indira,



from the chair. On seeing this defacto complainant came there. The 3rd accused, who is the petitioner herein, brandished a long stick towards the head of him and beat on his left back with that stick, causing pain and injuries. The 2nd accused then brandished a stick towards the head of defacto complainant, when he evaded, hit his neck. The 4th accused beat on his right forehead with stick. On seeing this, the father of the defacto complainant, Krishnan, came there and the 2nd accused beat on left side of his forehead with same stick. The 1st accused caught hold on neck of defacto complainant. If he could have not evade the same, his death would have been occurred. Accused Nos.2 and 3 pushed down the uncle of defacto complainant and attacked him. The 2nd accused broke 2 chairs and also broke the left side of the car parked in front of the house. Thereby caused a loss to the tune of 16,000/-. On the basis of the statement given by the defacto complainant, the respondent registered above case against the accused alleging aforesaid offences. Apprehending arrest in the case, the petitioner approached this Court with the present petition.

4. Heard the learned counsel for the petitioner



and the learned Public Prosecutor.

5. The counsel for the petitioner submitted that the petitioner is the 3rd accused and he has not committed any offence. The counsel submitted that the petitioner is ready to abide any conditions if this Court grant him bail. The Public Prosecutor opposed the bail application. But the Public Prosecutor submitted that as per the report received by him from the Investigating Officer, no criminal antecedent is alleged against the petitioner.

6. Admittedly the petitioner is the 3rd accused. No criminal antecedent is alleged against the petitioner. Considering the facts and circumstances of the case, I think the petitioner can be released on bail. But in **Davis P.R. v. State of Kerala** [2025 (2) KHC 6], this Court observed that if an offence of house trespass which is a non-bailable offence coupled with mischief is committed, the Court can direct the accused to deposit the amount of damages/half of the amount or even double the amount of damages as a condition for granting bail. Considering the facts and circumstances, I think there can be a direction to the petitioner to deposit an amount of Rs.4,000/-.



7. 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.

8. 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 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 accused."

9. 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.

10. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, I think bail can be granted after imposing stringent



conditions.

Therefore, 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 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 accused, or suspected, of the commission of which he is suspected.
6. The petitioner shall deposit an amount of Rs.4,000/- before the jurisdictional court and produce the receipt at the time of surrender.
7. 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].

8. The observations and findings in this order is only for the purpose of deciding this bail application. The principle laid down by this Court in ***Anzar Azeez v. State of Kerala*** [2025 SCC OnLine KER 1260] is applicable in this case also.
9. 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 to approach the jurisdictional Court to cancel the bail, if any of the above conditions are violated.

sd/-

P.V.KUNHIKRISHNAN
JUDGE