IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947

BAIL APPL. NO. 3950 OF 2025

CRIME NO.569/2025 OF Kodungallur Police Station, Thrissur

PETITIONER/S:

AKHIL
AGED 25 YEARS
S/O SUDARSANAN @ SUDHAN, THODUKULATH HOUSE, ERIYAD VILLAGE DESOM, KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN - 680666

BY ADVS.
P.M.ABDUL JALEEL (KODUNGALLUR)
K.N.MUHAMMED THANVEER
ARUNIMA.T.S.
ALTHAF AHMED ABDU

RESPONDENT/S:

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

2 **STATION HOUSE OFFICER**
KODUNGLALUR POLICE STATION REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, COCHIN,, PIN - 682031

OTHER PRESENT:

SR PP-HRITHWIK C S

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A. No.3950 of 2025

Dated this the 27th day of March, 2025

ORDER

The petitioner is in accused in Crime No.569 of 2025 of Kodungalloor Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 126(2), 115(2), 110 and 296(b) of BNS Act

2. The prosecution case is that on 17.03.2025 at 5.00 p.m, the petitioner wrongfully restrained the de facto complainant on a paramba nearby residence, verbally abusing her with obscene words and pushed her causing her to fall down. It is alleged that there was a fire near that place and unless his brother intervened, she would have fallen on the fire. Hence, she submitted that the petitioner committed the offence.

3. After hearing both sides, I am of the

considered opinion that the petitioner can be released on bail. From the facts and circumstances of the case, whether the offence under Section 110 of the BNS Act is attracted, is the matter to be investigated, I do not want any observation about the same. The main allegation is that the petitioner pushed the de facto complainant. Considering the facts and circumstances of the case, I think the petitioner can be released on bail after imposing stringent conditions.

4. 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.

5. 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."

6. 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.

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. 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. 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].

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. 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

Scl/