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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

BAIL APPL. NO. 3966 OF 2025

CRIME NO.1310/2024 OF Anthikad Police Station, Thrissur

PETITIONER/S:

SHAMEELA
AGED 33 YEARS
W/O. HABEEB, KUTHIBI NAGAR (1-102/5), KINNYA, D.K. DISTRICT, KARNATAKA, PIN - 575023

BY ADV SHABU SREEDHARAN

RESPONDENT/S:

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

OTHER PRESENT:

PP-SEENA C

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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P.V.KUNHIKRISHNAN, J

B.A. No. 3966 of 2025

Dated this the 8th day of April, 2025

O R D E R

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

2. The petitioner is an accused in Crime No. 1310/2024 of Anthikkad Police Station. The above case is registered against the petitioner alleging offences punishable under Secs. 316(2), 318(4) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The prosecution case is that the accused 1 to 8, who are running the firm UK Regal Academy in Mangalore offered the defacto complainant to arrange employment in UK and to take her family also with her to UK, made her to pay a total of Rs.8,85,000/- without arranging the employment and without paying back the amount collected, the accused

persons committed breach of trust. Hence, it is alleged that the accused committed the offences.

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

5. When this bail application came up for consideration on 02.04.2025, this Court passed the following order :

> *"The petitioner will appear before the Investigating Officer on 04.04.2025. The Investigating Officer can interrogate the petitioner. After interrogation, the Investigating Officer will submit a report before this court as to whether further custodial interrogation of the petitioner is necessary.*
> *The petitioner shall not be arrested till the next posting date.*
> *Post on 08.04.2025."*

6. Today, when the matter came up for consideration, the Public Prosecutor submitted that the petitioner is co-operating with the investigation. If that is the case, there can be a direction to the petitioner to appear before the investigating officer once again to complete the formalities. If the arrest is recorded, there can be a direction

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to release the petitioner on bail, after imposing stringent conditions.

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

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> 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, 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.

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2. After interrogation, if the Investigating Officer propose to arrest the petitioner, she 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/her 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 she is accused, or suspected, of the commission of which she 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. 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***

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Azeez v. State of Kerala [2025 SCC OnLine KER 1260] is applicable in this case also.

8. 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

SKS