IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

BAIL APPL. NO. 4298 OF 2025

CRIME NO.291/2025 OF TOWN EAST POLICE STATION, THRISSUR

PETITIONER/S:

1 RAGHUNANDHAN
AGED 73 YEARS
S/O VASUDEVAN THARAYIL, RESIDING AT THARAYIL HOUSE, KURUMPILAVU, KURUMPILAVU, THRISSUR, KERALA, PIN - 680564

2 SREEJITH K. S
AGED 37 YEARS
C/O PANKAJAM, KALLINGAL, PALLAM, PALLAM P.O., DESAMANGALAM, KOTTAMBATHUR, THRISSUR, KERALA, PIN - 679532

3 RANJITH K. S.
AGED 34 YEARS
C/O PANKAJAM, KALLINGAL, PALLAM, PALLAM P.O., DESAMANGALAM, THRISSUR, KERALA, PIN - 679532

BY ADVS.
P.T.SHEEJISH
HARIKIRAN
PARVATHY S. MANOJ
YOOSUF SAFWAN T. AJMAL
AMRITA SAFAL M.
PARVATHI

RESPONDENT/S:

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

2 POLSON LUIS
AGED 58, S/O LUIS, ENNOKKARAN HOUSE, NETHAJI ROAD, KUTTANELLUR PO, PUTTHOR, THRISSUR, ., PIN - 680014

3 JOYCE POLSON
AGED 50, W/O PAULSON, ENNOKKARAN HOUSE, NETHAJI ROAD KUTTANELLUR PO, PUTTHOR, THRISSUR, ., PIN - 680014

BY ADV
NOUSHAD K A, SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.4298 of 2025

Dated this the 11th day of April, 2025

O R D E R

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

2. Petitioners are the accused in Crime No.291 of 2025 of Town East Police Station, Thrissur. The above case is registered against the petitioners alleging offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860 (for short 'IPC').

3. The prosecution case is that the petitioners committed cheating and criminal breach of trust by fraudulently receiving a sum of ₹42,00,000/- from the complainants under the pretext of a fixed deposit investment in a financial institution, offering an interest rate of 12.50% per annum. It is alleged that neither the principal amount nor the interest was

returned. Hence it is alleged that the accused committed the offence.

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

5. When this bail application came up for consideration before this Court on 03.04.2025, this Court passed the following order:-

> “Petitioners shall appear before the Investigating Officer on 07.04.2025 at 10.00 a.m. The Investigating Officer can interrogate with the petitioners. After interrogation, the Investigating Officer shall file a report before this Court, whether custodial interrogation is necessary. Petitioners shall not be arrested till the next posting date.”

6. Today when the matter came up for consideration, the Public Prosecutor submitted that the petitioners surrendered and their further custodial interrogation is not necessary. If that is the case, the petitioners can be directed to appear before the Investigating Officer once again to complete the

formality. If the petitioners' arrest is recorded, there can be a direction to release the petitioners on bail.

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.

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 petitioners 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 petitioners, they 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 petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners 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. Petitioners shall not leave India without permission of the jurisdictional Court.

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. 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].

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 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 petitioners, 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

AMR