



2025:KER:29887

BAIL APPL. NO. 4429 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 7TH DAY OF APRIL 2025 / 17TH CHAITHRA, 1947

BAIL APPL. NO. 4429 OF 2025

CRIME NO.161/2025 OF Palarivattom Police Station

PETITIONERS/ACCUSED:

- 1 AJITH GOPALAN
AGED 26 YEARS
S/O GOPALAN P N , PAINANEYIL, KUTHUKUZH,
KOTHAMANGALAM, NELLIMATTOM P O KUTTAMANGALAM,
ERNAKULAM DISTRICT., PIN - 686693
- 2 SUJIN .S
AGED 27 YEARS
S/O SUNIL .N, 2/180, VILAYIL VEEDU,
ALAPPURAMKUNNU, KORANI P O , MANGALAPURAM
PANCHAYATH, THIRUVANANTHAPURAM., PIN - 695104
- 3 RAHUL. R
AGED 32 YEARS
S/O N.N RAJAN, KARTHIKALAYAM, EDAKKUNNAM,
CHARUMOOD P O , MAVELIKKARA, NOORANAD, ALAPPUZHA
DISTRICT., PIN - 690505
- 4 JOSH V.R
AGED 31 YEARS
S/O RAJAMANI G, VILLUVILA VEEDU, ADUKIDANTHAN,
CHATHURANGAPARA, IDUKKI. ., PIN - 685554
- 5 SIVAN
AGED 54 YEARS
W/O JALAJA, GOPALAN THOTTATHIL MELE PUTHEN
VEEDU, THATHIYOOR, MANCHAVILAKOM P O ,
THIRUVANANTHAPURAM., PIN - 695503



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**BY ADVS.
M.T.SURESHKUMAR
MANJUSHA K
SONA VIJAYAN K.
JAISON KALLIKKANATHU JOHN**

RESPONDENT/COMPLAINANT:

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

OTHER PRESENT:

SR PP-NOUSHAD K A

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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P.V.KUNHIKRISHNAN, J.

B.A.No.4429 of 2025

Dated this the 07th day of April, 2025

ORDER

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

2. Petitioners are the accused in Crime No.161/2025 of Palarivattom Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 126(2) and 118(1) read with Section 3(5) of the Bharatiya Nyaya Sanhita (for short, BNS).

3. The prosecution case is that, on 21-2-2025 at about 11.PM, while the defacto complainant was making a phone call by sitting on his motor bike in front of 'Rock Rose Bar' at Palarivattom, one employee of the bar allegedly took photograph of the motorbike and the defacto complainant using a mobile phone and the same was allegedly questioned by him. On seeing this the 1st accused and the Manager of the Bar, the 2nd accused, allegedly threatened to do away with him



and assaulted on his back and on the back of his head using iron rod and other accused persons also assaulted the defacto complainant. It is further alleged that the friends of the defacto complainant came for his rescue and they were also assaulted. Hence it is alleged that the accused committed the offence.

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

5. The counsel for the petitioners submitted that the petitioners are employees of the Bar, and the defacto complainant and others created problem inside the Bar and actually they attacked the petitioners. A counter case is registered. The counsel submitted that the petitioners are ready to abide any conditions if this Court grant them bail. The Public Prosecutor opposed the bail application.

6. Admittedly it is a case and counter case. There are two versions about the same incident and which version is correct cannot be decided in a bail application. The only non-bailable offence is under Section 118(1) of BNS. The maximum punishment that can be imposed is only three years. Considering the facts and circumstances of the case, I think the



petitioners can be released 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 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 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) each 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***



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[2020 (1) KHC 663].

7. 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**

JV