2025:KER:32105

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. 4903 OF 2025

CRIME NO.24/2025 OF Kareelakulangara Police Station, Alappuzha

AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl. NO.2913 OF 2025 OF HIGH COURT OF KERALA

PETITIONER/S:

SAJID
AGED 32 YEARS
S/O SHAJAHAN RESIDING AT PUTHAN PANDAKASALA, CHIRAKKADAVAM, KAYAMKULAM P.O KEERIKKAD, ALAPPUZHA, PIN - 690502

BY ADVS.
SRAVAN M.S.
AKHIL RAJ B.
SRIKANTH THAMBAN
ARUN RAJ
VISHNU VIJAYAN
AMEESHA GEORGE
BENSAN BENNY

RESPONDENT/S:

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

2 **THE STATION HOUSE OFFICER**
(CRIME NO.0024/2025) , KAREELAKULANGARA POLICE STATION, ALAPPUZHA DISTRICT, PIN - 690572

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

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P.V.KUNHIKRISHNAN, J

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B.A. No. 4903 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. The petitioner is the 3rd accused in Crime No. 24/2025 of Kareelakulangara Police Station. The above case is registered against the petitioner alleging offences punishable under secs. 115(2), 126(2), 137(2), 310(2) and 351 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

3. The prosecution case is that a vehicle belongs to one Mr.Noufal was entrusted to one Mr.Asif to sell the vehicle to any other person. But without selling the vehicle, Asif pledged the vehicle which came to the knowledge of Noufal. Noufal demanded the vehicle back but as the vehicle was pledged, they could not hand over the vehicle. Hence they

entrusted another vehicle with Noufal for the time being. Hence it is alleged that the accused committed the offences.

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

5. The counsel for the petitioner submitted that the dispute between the petitioner and the defacto complainant are settled and an affidavit is filed by the defacto complainant as evident by Annexure-A1. The counsel submitted that the petitioner is ready to abide any conditions, if this Court grants him bail. The Public Prosecutor submitted that the petitioner has got criminal antecedents and a rowdy sheet is also opened against him.

6. This Court considered the contentions of the petitioner and the Public Prosecutor. This Court also perused the affidavit filed by the defacto complainant. The main dispute is regarding a vehicle. The matter is settled between the parties. In such circumstances, I think the petitioner 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 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/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.

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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 i**s** 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.

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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