2025:KER:32257

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. 5008 OF 2025

CRIME NO.243/2025 OF Vakathanam Police Station, Kottayam

PETITIONER(S)/ACCUSED:

ANANTHU V.S.
AGED 29 YEARS
S/O SHAJI V.A., VELLARANGATTU KUNNEL HOUSE,
VAKATHANAM P.O., KOTTAYAM DISTRICT, PIN - 686538

BY ADVS.
M.P.MADHAVANKUTTY
MATHEW DEVASSI
ANGEL GYLES LIKE
PARVATHY R.

RESPONDENT(S)/COMPLAINANT:

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

BY ADV.:

SRI 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:

2025:KER:32257

P.V.KUNHIKRISHNAN, J.

BA No.5008 of 2025

Dated this the 11th day of April, 2025

O R D E R

This bail application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

2. Petitioner is the accused in Crime No.243/2025 of Vakathanam Police Station, Kottayam. The above case is registered against the petitioner and others alleging offences punishable under Sections 189(1), 189(2), 191(2), 190, 296(b), 351(2), 126(2), 132, 121(1) and 118(1) of the Bharatiya Nyaya Sanhita (BNS), 2023.

3. The prosecution case is that, on

2025:KER:32257

31-03-2025 at 9.30 p.m., the accused persons 10 in number who are identifiable by sight formed themselves into an unlawful assembly and with the knowledge that all of them are part of the unlawful assembly attacked the police personals who were on law and order duty at Panakkalkavu temple in connection with the annual festival. According to the prosecution, during the ganamela programme in the above temple, the accused persons disobeyed the commands of the police and attacked them by uttering abusive language. According to the prosecution, the above act of the accused amounts to interference of official duty by the police. It is further alleged by the prosecution that the first accused who can be identifiable by sight attacked on the right eyebrow portion of the defacto complainant with an iron object. The second and third accused



who are also identifiable by sight attacked the defacto complainant by beating him. The fourth accused kicked the police driver by name Abhilash. Accused numbers 5 to 10 beat and punched on the Sub Inspector of Police with their hands. Hence, it is alleged that the accused committed the offence.

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

5. The counsel for the petitioner submitted that the allegation against the petitioner is not correct. The counsel submitted that the petitioner is ready to cooperate with the investigation and he is ready to abide any condition imposed by this Court, if this Court grants him bail. It is also submitted that the incident happened in connection with a temple festival.

6. The Public Prosecutor opposed the bail application. But, he conceded that, as per the report



received by him from the Investigating Officer, no criminal antecedents is alleged against the petitioner.

7. This Court considered the contentions of the petitioner and the Public Prosecutor. The alleged incident happened in connection with a temple festival. The non-bailable offences alleged against the petitioner are under Sections 132, 121(1) and 118(1) of the BNS. The maximum punishment that can be imposed for the said offences are up to 7 years. Considering the facts and circumstances of the case, I think, custodial interrogation of the petitioner is not necessary. The petitioner can be directed to appear before the Investigating Officer and after interrogation, if arrest is recorded, there can be a direction to the Investigating Officer to release the petitioner on bail.

8. 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.

9. 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."

10. 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



decisions and considering the facts and circumstances of this case, this Bail Application is allowed with the following conditions:

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. 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.*

7. 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].*

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 this bail*

2025:KER:32257

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

nvj