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. 5199 OF 2025

CRIME NO.396/2025 OF Kattappana Police Station, Idukki

AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl. NO.3876 OF 2025 OF HIGH COURT OF KERALA

PETITIONER/ACCUSED NO.1:

PRAMOD.E.VARGHESE
AGED 42 YEARS
S/O.M.E.VARGHESE, THEKKEMURIYIL HOUSE,
MARARITHOTTAM, MALLAPPALLI EAST KARA, MALLAPPALL
VILLAGE. PATHANAMTHITTA, PIN - 689584

BY ADVS. HARIKRISHNAN M.S.
SHAKTHI PRAKASH
K.DHRUV KUMAR

RESPONDENT/STATE/COMPLAINANT:

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

2 THE STATION HOUSE OFFICER
KATTAPANNA POLICE STATION, KATTAPANNA, IDUKKI, PIN - 685508

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:

P.V.KUNHIKRISHNAN, J.

B.A. No.5199 of 2025

Dated this the 11th day of April, 2025

ORDER

This Bail Application is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, for regular bail.

2. Petitioner is the 1st accused in Crime No.396/2025 of Kattappana Police Station. The offences alleged are under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860.

3. The prosecution case is that the petitioner/1st accused, along with the 2nd accused, committed criminal breach of trust and cheating by obtaining an amount of Rs.2,80,00,000/- from the defacto complainant, offering job at New Zealand, and thereafter did not arrange the job as agreed, or return the amount collected from him. It is also alleged that the accused provided fake visa and documents to the defacto complainant and four others. Thus the petitioner is alleged to

have committed the aforesaid offence.

4. The petitioner was arrested on 06.03.2025 and remanded to judicial custody. In the present petition, the petitioner would contend that he is totally innocent, and that he has been falsely implicated in this case.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State of Kerala.

6. The bail application is strongly opposed by the learned Public Prosecutor. It is submitted by the learned Public Prosecutor that, considering the huge amount involved in the transaction, the release of the petitioner on bail at this stage may not be in the interest of justice. Per contra, the learned counsel for the petitioner submitted that, there is no purpose to be fulfilled by the prolonged detention of the petitioner in custody, and hence, he is entitled to be released on bail.

7. As already stated above, the petitioner is in custody since 06.03.2025. On a query by the Court, the learned Public Prosecutor submitted that the custodial interrogation of the petitioner is already over. There is also no contention for the

prosecution that the petitioner is having criminal antecedents in connection with the involvement in similar offences. Since it is seen that the petitioner has been in custody for more than 18 days, and that there is no purpose to be fulfilled by the prolonged detention of the petitioner in custody, I deem it appropriate to grant regular bail to the petitioner, subject to strict conditions.

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. Moreover, in **Jalaluddin Khan v. Union of India [2024 KHC 6431]**, the Hon'ble Supreme Court observed that:

> “21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus

> was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution.”
> (underline supplied)

10. In **Manish Sisodia v. Directorate of Enforcement [2024 KHC 6426]**, also the Hon'ble Supreme Court observed that:

> “53. The Court further observed that, over a period of time, the trial courts and the High

> Courts have forgotten a very well - settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".”

11. Considering the dictum laid down in the above decisions, and considering the facts and circumstances of this case, this Bail Application stands allowed with the following directions:

1. Petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

2. 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.

3. Petitioner shall not leave India without permission of the jurisdictional Court.

4. Petitioner shall not commit any offences of similar nature, while on bail.

5. The petitioner shall appear before the Investigating Officer on all Mondays at 10 am, till the Final Report is filed.

6. The petitioner shall surrender his passport before the Magistrate concerned within seven days after his release from the

prison. If he has no passport, he shall file an affidavit to that effect before the learned Magistrate.

7. The petitioner will be entitled to move the trial court for modification of conditions of bail, if he actually deserves such modification.

8. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance with 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 there is any violation of the above conditions.

sd/-
P.V.KUNHIKRISHNAN
JUDGE

JV