2025:KER:31223

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

BAIL APPL. NO. 5204 OF 2025

CRIME NO.10/2024 OF CYBER CRIME POLICE STATION, KASARAGOD, Kasargod

AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl. NO.2910 OF 2025 OF HIGH COURT OF KERALA

PETITIONER(S)/ACCUSED NO.7:

MUHAMMED NOUSHAD. A.T
AGED 45 YEARS, S/O ABOOBACKER, A.T. HOUSE, KAVVAYI, PAYYANNUR, KANNUR DISTRICT, NOW RESIDING AT BAITHUL NAHIYAN, THAMARAKKUZHI, MOTTAYIL, MANGAD, BARA VILLAGE, KASARAGOD DISTRICT, PIN - 671318

BY ADVS.
B.MUHAMMED SHAHEEL
JYOTHI R. NAIR
FEBA MARY THOMAS
KEERTHI VIJAYAN

RESPONDENT(S)/STATE:

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

BY ADV.:

SRI G SUDHEER, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10.04.2025, ALONG WITH Bail Appl..5206/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:31223

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

BAIL APPL. NO. 5206 OF 2025

CRIME NO.415/2024 OF Infopark Police Station, Ernakulam

AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl. NO.2990 OF 2025 OF HIGH COURT OF KERALA

PETITIONER(S)/ACCUSED NO.2:

MUHAMMED NOUSHAD. A.T
AGED 45 YEARS, S/O ABOOBACKER, A.T. HOUSE, KAVVAYI, PAYYANNUR, KANNUR DISTRICT, NOW RESIDING AT BAITHUL NAHIYAN, THAMARAKKUZHI, MOTTAYIL, MANGAD, BARA VILLAGE, KASARAGOD DISTRICT, PIN - 671318

BY ADVS.
B.MUHAMMED SHAHEEL
JYOTHI R. NAIR
FEBA MARY THOMAS
KEERTHI VIJAYAN

RESPONDENT(S)/STATE:

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

BY ADV. SRI. G. SUDHEER, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10.04.2025, ALONG WITH Bail Appl..5204/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:31223

P.V.KUNHIKRISHNAN, J.

BA No.5204 and 5206 of 2025

Dated this the 10th day of April, 2025

O R D E R

These Bail Applications are filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. These two bail applications are connected and therefore, I am disposing of these two cases by a common order.

2. The petitioner in both these cases are one and the same person. He is an accused in Crime No.415/2024 of Infopark Police Station, Ernakulam and in Crime No.10/2024 of Cyber Crime Police Station, Kasargod. Crime No.415/2024 was registered by the Infopark Police



alleging offence punishable under Section 318(4) r/w 3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023. The prosecution case in this case is that the accused cheated the defacto complainant for an amount of Rs.2,64,000/- through an online fraud by portraying themselves to be the officers of the Mumbai Police and threatened the defacto complainant that his accounts would be frozen and forced him to pay a large amount of money to prevent such coercive action.

3. Crime No.10/2024 was registered by the Cyber Crime Police Station, Kasargod, alleging offences punishable under Section 420 of the Indian Penal Code and also under Section 66D of the Information Technology Act. The prosecution case in the above crime is that the accused along with the other accused contacted the defacto



complainant through whatapp and telegram chat and offered a home-based part-time job. It is also alleged that the accused collected huge amount from the defacto complainant. The amount is not returned and the job is also not provided as offered. 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 petitioner was arrested in connection with Crime No.10/2024 of Cyber Crime Police Station, Kasargod on 12.02.2025 and his arrest was recorded in Crime No.415/2024 of Infopark Police Station, Ernakulam on 18.02.2025. The petitioner earlier filed bail applications before this Court as BA



No.2910/2025 in Crime No.10/2024 and BA No.2990/2025 in Crime No.415/2024. After hearing both sides, this Court was not inclined to grant bail at that stage. Therefore, the counsel for the petitioner seeks permission to withdraw the bail applications with liberty to move it again. This Court granted liberty to the petitioner to move it again after four weeks. Accordingly, the present bail applications are filed. Considering the facts and circumstances of the case and also considering the period of detention, I think, petitioners can be released on bail after imposing stringent conditions.

6. 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 in as much 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.

7. 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)

8. 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".”

Considering the dictum laid down in the above decisions and considering the facts and circumstances of these cases, these Bail Applications are allowed with the following conditions:

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 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 an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.*

5. *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.*

6. *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 victims are at liberty to approach the jurisdictional court to cancel the bail, if there is any violation of the above condition.

Sd/-

P.V.KUNHIKRISHNAN
JUDGE

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