**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. 5363 OF 2025**

**CRIME NO.503/2025 OF KOLLAM WEST POLICE STATION, KOLLAM**

**AGAINST THE ORDER DATED 27.03.2025 IN BAIL APPL. NO.4062 OF 2025 OF HIGH COURT OF KERALA**

**PETITIONER/SOLE ACCUSED:**

**GIREESHKUMAR M**
**AGED 45 YEARS, S/O.MANIYAN PILLAI,CHRISTO DALE VEEDU, KERA NAGAR, KAVANAD P.O., MEENATHU CHERRY, SAKTHIKULANGARA VILLAGE,**
**NOW RESIDING AT MARY BABURAJAN HOMES-1A GOPIKADA JUNCTION, KANNIMEL CHERRY, SAKTHIKULANGARA VILLAGE, SAKTHIKULANGARA, KOLLAM, PIN – 691 003.**

**BY ADVS.**
**B.MOHANLAL**
**P.S.PREETHA**
**ASWIN V. NAIR**
**KARTHIK J SEKHAR**
**ABIJITH M.**
**AVANI NAIR**
**JAYAPRABHA ARJUN**
**PRAVEENA T.**

**RESPONDENTS:**

1 **STATE OF KERALA**
**REPRESENTED BY PUBLIC PROSECUTOR,**
**HIGH COURT OF KERALA, PIN – 682 031.**

**2 THE STATION HOUSE OFFICER
KOLLAM WEST POLICE STATION, CUTCHERY P.O.,
KOLLAM, PIN – 691 013.**

**BY ADV
HRITHWIK CS, SR.PP**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**P.V.KUNHIKRISHNAN, J**

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**B.A.No.5363 of 2025**

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**Dated this the 10th day of April, 2025**

**O R D E R**

This Bail Application is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita.

2. Petitioner is the accused in Crime No.503 of 2025 of Kollam West Police Station,. The above case is registered against the petitioner alleging offences punishable under Section 108 of Bharatiya Nyaya Sanhitha (for short'BNS').

3.The prosecution case is that the petitioner visited the family house of the deceased Rashmi to participate in the rituals at Kottamkulangara Temple. The petitioner and Smt. Rashmi aged 42 years were living together in a flat at Kannimel Cherry, Sakthikulangara, Kollam. The petitioner provoked with deceased by

alleging that she had come to meet her former lover and humiliated her by making derogatory remarks in front of her family, the petitioner forcibly prevented her from attending the ceremony and compelled her to return to her flat, the petitioner confronted the deceased at her flat by verbal altercations and dispute over financial transactions caused mental harassment and the deceased was driven to mental distress to end her life on 16.03.2025 between 9:10 a.m., hanged herself by using a blue shawl from the ceiling fan in the bedroom of the flat, the petitioner immediately taken her to the District Hospital, Kollam, she was declared dead and thereby the accused committed the offence.

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

5. Counsel appearing for the petitioners submitted that the petitioner is in custody from 18.03.2025. The counsel submitted that the petitioner is

ready to abide any conditions, if this Court grants him bail.

6. Public Prosecutor opposed the bail application.

7. The petitioner earlier filed an application for bail before this Court as B.A No.4062 of 2025. After hearing both sides in detail, this Court was not inclined to grant bail to the petitioner, considering the seriousness of the case. At that stage, counsel for the petitioner wants to withdraw the bail application with liberty to move it again. This Court granted liberty to the petitioner to move the bail application after 10 days. Accordingly, this present bail application is filed.

8. It is true that the allegation against the petitioner is very serious. But, the counsel appearing for the petitioner submitted that ingredients of Section 108 of BNS is not attracted in this case. I do not want to make any observation about the same. Considering the period of detention, I think the petitioner can be released on bail

after imposing stringent conditions.

9. 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.

10. 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)

11. 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 decision and considering the facts and circumstances of this case, this Bail Application is 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 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 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 there is any violation of the above conditions.

**Sd/-**

**P.V.KUNHIKRISHNAN**
**JUDGE**

AMR