

(2020) 12 KL CK 0206
In the High Court Of Kerala
Case No : Bail Application No. 8124 Of 2020

Abeesh Hasan And Ors

APPELLANT

Vs

State Of Kerala And Anr

RESPONDENT

Date of Decision : 14-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 156(3), 438
Indian Penal Code, 1860 — Section 34, 294(b), 313, 323, 324, 354, 405, 406, 420, 498(A)

Citation : (2020) 12 KL CK 0206

Hon'ble Judges : P.V. Kunhikrishnan, J

Bench : Single Bench

Advocate : Raj Carolin V., Renjith. T.R.

Final Decision : Allowed

Judgement

1. This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioners are the accused in Crime No.224/2020 of Anchalumoodu Police Station. The above case is registered against the petitioners

alleging offences punishable under Sections 498(A), 354, 313, 323,324, 420, 405, 406, 294(b) r/w Section 34 of the IPC. 3. The prosecution case is that

the petitioners mentally and physically harassed the defacto complainant. It is also alleged that the petitioners committed the offences under Sections

313 and 420 IPC.

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

5. The counsel for the petitioners submitted that there is some matrimonial dispute between the first petitioner and the defacto complainant. The

counsel submitted that the offences alleged against the petitioners are

matrimonial offences. The counsel also submitted that some litigations are pending before the Family Court. The counsel submitted that the matrimonial relationship between the first petitioner and the defacto complainant is even now in existence.

6. The Public Prosecutor submitted that the case is registered based on a private complaint filed before the jurisdictional magistrate which was forwarded under Section 156 (3) Cr.P.C. The counsel submitted that the petitioners are ready to abide any conditions if this Court grant them bail.

7. The Public Prosecutor opposed the bail application. But the Public Prosecutor submitted that if this Court is granting bail, stringent conditions may be imposed.

8. After hearing both sides, I think, this bail application can be allowed on stringent conditions. Admittedly, the case is registered based on a private complaint filed before the jurisdictional magistrate which was forwarded under Section 156 (3) Cr.P.C. Admittedly, there are matrimonial dispute pending between first petitioner and the defacto complainant. The matrimonial relationship between the first petitioner and the defacto complainant is in existence even now. I don't want to make any observation on the merit of the case. Considering the entire facts and circumstances and I think, this Bail Application can be allowed on stringent conditions.

9. Moreover, considering the need to follow social distancing norms inside prisons so as to avert the spread of the novel Corona Virus Pandemic, the Hon'ble Supreme Court in Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition(C) No.1 of 2020) and a Full Bench of this Court in W.P(C)No.9400 of 2020 issued various salutary directions for minimizing the number of inmates inside prisons.

10. 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.

11. 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 petitioners shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.
2. After interrogation, if the Investigating Officer propose to arrest the petitioners, they shall be released on bail executing a bond for a sum of Rs,.50,000/-(Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the officer concerned.
3. The petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners 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 them from disclosing such facts to the Court or to any police officer.
4. Petitioners shall not leave India without permission of the Court.
5. Petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
6. The petitioners shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing in the wake of Covid 19 pandemic.
7. If any of the above conditions are violated by the petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.