
(2021) 05 KL CK 0009
In the High Court Of Kerala
Case No : Bail Application No. 2584 Of 2021

Arman Musthafa M And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 04-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 156(3), 438
Indian Penal Code, 1860 — Section 34, 294(b), 498(A), 506

Citation : (2021) 05 KL CK 0009

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

Bench : Single Bench

Advocate : Manu Ramachandran, M. Kiranlal, T.S. Sarath, R. Rajesh, Sameer M Nair, Sreeja V

Final Decision : Allowed

Judgement

1. These Bail Applications filed under Section 438 of Criminal Procedure Code (Cr.P.C.) were heard through Video Conference.

2. These two bail applications are connected and therefore, I am disposing these bail applications by a common order. The petitioners in B.A.2584 of

2021 are accused Nos. 1 to 4 and the petitioner in B.A. No. 3621 of 2021 is the fifth accused in Crime No.288/2021 of Ranni Police Station. The

above case is registered against the petitioners based on a private complaint filed before the jurisdictional court which is forwarded under Section

156(3) Cr.P.C. The offences alleged against the petitioners are under Sections 498A, 294(b), 506 r/w Section 34 of IPC.

3. The Prosecution case is that the petitioners mentally and physically harassed the defacto complainant. 4. Heard counsel for the petitioners and the

Public Prosecutor. The counsel for the petitioners submitted that the offences alleged against the petitioners are matrimonial offences and the

petitioners are ready to abide any conditions if this Court grant them bail. The counsel submitted that there is some matrimonial disputes between the first accused and the defacto complainant. The Public Prosecutor opposed the bail applications. But the Public Prosecutor submitted that if this Court is granting bail, stringent conditions may be imposed.

5. Admittedly, some matrimonial dispute is pending between the first petitioner and the defacto complainant. The offences alleged are matrimonial offences. Considering the entire facts and circumstances of the case, I think this bail application can be allowed on stringent conditions.

6. Moreover, the 2nd wave of COVID-19 is spreading in the country and the citizens are facing serious difficulties. In the state of Kerala, the 2nd wave of the pandemic is creating lot of problems and even the day-to-day life of the citizens are affected. Everyday, about 25,000 people are tested positive with COVID-19. In such circumstances, this Court has to consider this fact also while considering bail applications. The life is more important than anything. Therefore, I am considering this bail application based on the above pandemic situation.

7. 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. These happened during the 1st wave of COVID-19 season.

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. 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 proposes 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 him from disclosing such facts to the Court or to any police officer;

4. The petitioners shall not leave India without permission of the Court;

5. The 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.