
(2020) 12 KL CK 0050
In the High Court Of Kerala
Case No : Bail Application No. 7945 Of 2020

Lalitha Vishwanathan And Ors

APPELLANT

Vs

State Of Kerala And Anr

RESPONDENT

Date of Decision : 03-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 125, 156(3), 438
Indian Penal Code, 1860 — Section 34, 294(b), 323, 341, 498A, 506

Citation : (2020) 12 KL CK 0050

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

Bench : Single Bench

Advocate : C.A. Joy, 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 accused Nos. 2 to 4 in Crime No.3824/2020 of Kottarakkara Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 498A, 323, 341, 506, 294(b) r/w Section 34 of the IPC.
3. The prosecution case is that the first accused married the defacto complainant. Thereafter, it is alleged that the petitioners and the first accused mentally and physically harassed the defacto complainant.
4. Heard the counsel for the petitioners and the learned Public Prosecutor.
5. The counsel for the petitioners submitted that the allegations alleged against the petitioners are not correct. The counsel submitted that a notice for divorce was issued to the defacto complainant by the first accused on 12.3.2020. Thereafter, a petition for divorce was filed before the Family Court.

Subsequently, after getting notice from the Family Court, the defacto complainant filed a petitioner under Section 125 Cr.P.C. and the present

complaint before the jurisdictional magistrate court. The case is registered based on the complaint received from the court under Section 156(3)

Cr.P.C. The counsel submitted that there is no serious allegations against the petitioners who are the in-laws of the defacto complainant.

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

7. After hearing both sides, I think, this bail application can be allowed on stringent conditions. Admittedly, matrimonial offences are alleged against the

petitioners. The petitioners are the in-laws of the defacto complainant. 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.

8. 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.

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. 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.