

(2022) 08 KL CK 0195
In the High Court Of Kerala
Case No : Bail Application No. 6406 Of 2022

Marimuthu Krishnaswamy

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 29-08-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 41A, 439
Indian Penal Code, 1860 — Section 406, 420

Citation : (2022) 08 KL CK 0195

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : George Mathew, Praveen S., Stephy K Regi, Sunil Kumar A.G,
George K.V., Mathew K.T., M.D.Sasikumaran, Dipu James, Noushad K.A

Final Decision : Allowed

Judgement

Bechu Kurian Thomas, J

1. This is an application seeking regular bail filed under Section 439 of Code of Criminal Procedure, 1973.
2. Petitioner is the 2nd accused in Crime No.1621/2020 of the Central Police Station, Ernakulam, now pending consideration as C.C.No.59/2021 of Chief Judicial Magistrate Court, Ernakulam. The offences alleged against the petitioner are under Sections 406 and 420 of the Indian Penal Code, 1860.
3. The prosecution case is that the accused, after committing the offences of cheating and criminal breach of trust, absconded, despite receiving the notice under Section 41A of Cr.P.C. and therefore, he was arrested on 29.07.2022, from Dindigul.
4. Shri.George Mathew, the learned counsel for the petitioner contended that the continued detention of the petitioner is not warranted and that he is willing to abide by any conditions that may be imposed.

5. Shri.K.A.Noushad, the learned Public Prosecutor opposed the grant of bail and contended that the petitioner's antecedents do not warrant the grant of bail, especially since there is every possibility of him absconding again.

6. Considering the circumstances of the case including the filing of the final report, I am of the view that though the petitioner had absconded earlier, despite having been served with Section 41A of Cr.P.C. notice, the continued detention of the petitioner is not warranted and the bail can be granted on strict conditions to ensure the presence of the accused for trial.

7. Accordingly, this application is allowed on the following conditions:

(a) Petitioner shall be released on bail on him executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum. One of the sureties shall be a local surety, to the satisfaction of the court having jurisdiction.

(b) Petitioner shall appear before the Court regularly, unless exempted specifically by the Trial Court.

(c) Petitioner shall file an affidavit providing all the mobile telephone numbers of himself as well as that of his wife.

(d) Petitioner shall not commit any similar offences while he is on bail.

(e) Petitioner shall not leave India without the permission of the Court having jurisdiction.

8. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court.