

(2023) 05 KL CK 0062
In the High Court Of Kerala
Case No : Bail Application No. 559 Of 2023

Raj Kumar N.V

APPELLANT

Vs

Station House Officer

RESPONDENT

Date of Decision : 09-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 353, 465, 468, 471, 473

Citation : (2023) 05 KL CK 0062

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

Bench : Single Bench

Advocate : Sunny Mathew, Nikitta Tressy George, C.N Prabhakaran

Final Decision : Allowed

Judgement

P.V.Kunhikrishnan, J

1. This Bail Application filed under Section 438 of Criminal Procedure Code (Cr.P.C.)
2. Petitioner is the accused in Crime No. 663/2022 of Pantheerankavu Police Station. The above case is registered against the petitioner alleging offences punishable under Section 465, 468, 473, 353 and 471 IPC.
3. Prosecution case is that, on 14.12.2022 at about 11 AM accused in the above case approached the defacto complainant who is the Village Officer of Perumanna Grama Panchayat and submitted an application for a possession certificate accompanied by a certificate issued by the Perumanna Co-operative Agricultural Development Society. It is submitted that the Village Officer expressed some doubts about the genuineness of the said certificate and then the accused forcefully tried to get back the certificate and thereby obstructed the official duty of the Village Officer. Hence it is alleged that the accused committed the offences.
4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

The Counsel for the petitioner submitted that the offence under Section 353 IPC is not made out in the facts and circumstances of the case. The Counsel submitted that the petitioner is ready to abide any conditions if this Court grant him bail.

5. After hearing both sides, I am of the considered opinion that the custodial interrogation of the petitioner is not necessary. The petitioner can be directed to surrender before the Investigating Officer and there can be a direction to the Investigating Officer to release him on bail after interrogation. There can be a further direction to the petitioner to appear before the Investigating Officer once in a week till final report is filed. Considering the facts and circumstances of the case, I think this bail application can be allowed on stringent conditions.

6. 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.

7. 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 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 petitioner, he shall be released on bail on executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer concerned;
3. 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 them from disclosing such facts to the Court or to any police officer;
4. Petitioner shall not leave India without permission of the jurisdictional Court;
5. 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;
6. The petitioner shall appear before the Investigating Officer on all Mondays at 11 AM till final report is filed.
7. 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.