
(2020) 12 KL CK 0081
In the High Court Of Kerala
Case No : Bail Application No. 8104 Of 2020

S. Anil And Ors

APPELLANT

Vs

State Of Kerala And Anr

RESPONDENT

Date of Decision : 04-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 406, 498A

Citation : (2020) 12 KL CK 0081

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

Bench : Single Bench

Advocate : Sooraj T. Elenjickal, C.R. Shyam Kumar, 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. Petitioners are the accused in Crime No.493/2020 of Nilambur Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 498A and 406 r/w 34 IPC.
3. The prosecution case is that the 1st petitioner is the husband of the defacto complainant and the petitioners mentally and physically harassed the defacto complainant.
4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.
5. The counsel for the petitioners submitted that there are matrimonial disputes pending between the 1st petitioner and the defacto complainant. The cases are pending before the Family Court. The offences alleged against the petitioners are matrimonial offences. The counsel submitted that the

petitioners are ready to abide any condition, if this Court grant them bail.

6. The learned Public Prosecutor opposed the bail application. But the Public Prosecutor submitted that if this Court is granting bail to the petitioners, 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 matrimonial disputes are pending between the 1st petitioner and the defacto complainant before the Family Court. I don't want to make any observation about the merit of the case. Considering the entire facts and circumstances of the case, 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 petitioner 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 petitioner, 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. Petitioners shall not leave India without permission of the jurisdictional 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.