
(2020) 12 KL CK 0297
In the High Court Of Kerala
Case No : Bail Application No. 8178 Of 2020

Sreesha Sreedharan And Anr

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 18-12-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 34, 354A(1)(ii), 384, 506(i)
Kerala Police Act, 2011 — Section 119

Citation : (2020) 12 KL CK 0297

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

Bench : Single Bench

Advocate : Premchand M., S. Saju, Ajith Murali

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 the accused in Crime No.1210/2020 of Mala Police Station. The above case is registered against the petitioners and another

alleging offences punishable under Sections 354 A (1) (ii), 384, 506 (i) r/w Section 34 of the IPC. The offence under Section 119 of the Kerala Police

Act is also alleged.

3. The prosecution case is that the second petitioner threatened the defacto complainant that he is in possession of nude photographs of her and

demanding huge amount. It is further alleged that the petitioners and one Silpa Chandran visited the house of the defacto complainant on 30.8.2020 and

continued their threat demanding an amount of Rs.25 lakhs. Hence it is alleged that the accused committed the offences.

4. An application is filed by the defacto complainant in this case to implead herself as additional respondent and that application is allowed.

5. Heard the counsel for the petitioners, counsel for the defacto complainant and the learned Public Prosecutor.

6. The counsel for the petitioners submitted that this is a false case foisted against the petitioners. There are cases pending before the Family court.

To get strength in the contention before the Family Court, this false case is foisted against the petitioners. The counsel submitted that the only non-

bailable offence alleged against the petitioners is under Section 384 IPC. Even if the entire allegations are accepted, no offence under Section 384 IPC

is made out. The counsel submitted that the petitioners are ready to abide any conditions if this Court grant them bail.

7. The counsel for the defacto complainant seriously opposed the bail application. The counsel for the defacto complainant submitted that this is a

clear case in which the offence under Section 384 IPC is made out. The counsel submitted that this Court may not release the petitioners on bail under

Section 438 Cr.P.C.

8. The Public Prosecutor made available the case records. The Public Prosecutor submitted that the allegations against the petitioners are very

serious. But the Public Prosecutor submitted that if this Court is granting bail, stringent conditions may be imposed.

9. After hearing both sides, I think, this bail application can be allowed on stringent conditions. Admittedly, there is a divorce petition pending before

the Family court which is filed by one Silpa Chandran against her husband who is Sandeep Unnikrishnan. First petitioner is the Power of Attorney

holder of Silpa Chandran. In that divorce petition, the defacto complainant is a respondent and he is alleged as an adulterer. On the other hand, the

above Sandeep Unnikrishnan filed another divorce petition before the Family Court in which the adulterer is shown as the second petitioner herein.

Both the Original Petitions are pending before the Family court. The first petitioner is the Power of Attorney holder of the Silpa Chandran. There are

allegations and counter allegations between both sides. Matrimonial disputes are pending between Silpa Chandran and her husband before the Family

Court. According to me, all these cases are connected to the matrimonial relationship between Silpa Chandran and her husband. 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.

10. 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.

11. 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.

12. 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.