2025:KER:31853

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

BAIL APPL. NO. 4958 OF 2025

CRIME NO.146/2025 OF Adhur Police Station, Kasargod

PETITIONER(S)/ACCUSED NOS.2 & 3:

1 VINEETH.K
AGED 36 YEARS
S/O. KUNHIRAMAN, RESIDING AT SRIDHAR NIVAS, NELLITHAVU, KUTTIKKOL VILLAGE AND POST, KASARAGOD DISTRICT, PIN - 671541

2 SIDHARTH V.S
AGED 26 YEARS
S/O. M.R.SUKUMARAN, RESIDING AT SARAYU HOUSE, KALAKKARA, KUTTIKKOL P.O, KASARAGOD DISTRICT, PIN - 671541

BY ADVS.
T.MADHU
C.R.SARADAMANI
RENJISH S. MENON
ALEENA JOSE
AVANTHIKA R.
KARTHIK KRISHNA M.

RESPONDENT(S)/STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF

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KERALA, PIN - 682031

BY ADV.
SRI. NOUSHAD K A, SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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P.V.KUNHIKRISHNAN, J

B.A.No.4958 of 2025

Dated this the 11th day of April, 2025

O R D E R

This Bail Application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita.

2. Petitioners are the accused in Crime No.146/2025 of Adhur Police Station, Kasargode. The above case is registered against the petitioners and others alleging offences punishable under Sections 118(1) & 110 r/w 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

3. The prosecution case is that the accused, because of their enmity towards the defacto complainant as he kicked on the platform erected for a Holy Basil situated in front of the Toddy shop, assaulted the defacto complainant from opposite to the toddy shop at Kanathur in Muliyar Village on 26.02.2025 at 12.00 noon. The 1st accused assaulted the defacto complainant by beating with Nanjek on his head. Thereupon, at around 12.30



pm the accused 2 to 4 who reached the place as informed by the 1st accused followed by the defacto complaint and assaulted him by using sticks at Ambalam Road. The accused assaulted as above by beating on the nose and head of the defacto complainant. Hence it is alleged that the accused committed the above said offences.

4. Heard the learned counsel appearing for the petitioners and the learned Public Prosecutor.

5. Counsel for the petitioners submitted that it is a case and counter case. Annexure-A1 is the FIR in this case and Annexur-A2 is the FIR in the counter case. The counsel submitted that the petitioners are ready to abide any conditions if this Court grant them bail.

6. The Public Prosecutor opposed the bail application and submitted that the allegations against the petitioners are serious.

7. This Court considered the contentions of the petitioners and the Public Prosecutor. It is true that the allegations against the petitioners are serious. But it is a case



and counter case. There are two versions about the same incident. Which version is correct cannot be decided in a bail application. Considering the facts and circumstances of the case, I think this bail application can be allowed on stringent conditions.

8. 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.

9. Recently the Apex Court in **Siddharth v. State of Uttar Pradesh and Another [2021(5)KHC 353]** considered the point in detail. The relevant paragraph of the above judgment is extracted hereunder.

> "12. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest

> an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. (Joginder Kumar v. State of UP and Others (1994 KHC 189: (1994) 4 SCC 260: 1994 (1) KLT 919: 1994 (2) KLJ 97: AIR 1994 SC 1349: 1994 CriLJ 1981)) If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused."

10. In **Manish Sisodia v. Central Bureau of Investigation [2023 KHC 6961]**, the Apex Court observed that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case.

11. 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:

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1. The petitioners shall appear before the Investigating Officer within two weeks from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioners, they shall be released on bail on 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 arresting 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 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 observations and findings in this order is only for the purpose of deciding this bail application. The principle laid down by this Court in **Anzar Azeez v. State of Kerala** [2025 SCC OnLine KER 1260] is applicable in this case also.

7. Needless to mention, it would be well within the powers of the investigating officer to investigate the matter and, if necessary, to effect recoveries on the

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information, if any, given by the petitioners even while the petitioners are on bail as laid down by the Hon'ble Supreme Court in ***Sushila Aggarwal v. State (NCT of Delhi) and another*** [2020 (1) KHC 663].

8. 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. The prosecution and the victim are at liberty to approach the jurisdictional Court to cancel the bail, if any of the above conditions are violated.

Sd/-

P.V.KUNHIKRISHNAN, JUDGE

DM