2025:KER:32096

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. 5000 OF 2025

CRIME NO.681/2025 OF Changanassery Police Station, Kottayam

PETITIONER/S:

KANNAN @ JAITHKUMAR J
AGED 32 YEARS
RESIDING AT ARYANKALA HOUSE, PUTHUPRAMBIL,
SANTHIPURAM P. O, KOTTAYAM, PIN - 686545

BY ADVS.
ADHIL P.
SHABEER ALI MOHAMED

RESPONDENT/S:

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031

2 **STATION HOUSE OFFICER**
CHANAGANSSERY POLICE STATION, CHANGANASSERY, KOTTAYAM, PIN - 686101

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11.04.2025,ALONG WITH Bail Appl..4985/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:32096

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. 4985 OF 2025

CRIME NO.681/2025 OF Changanassery Police Station, Kottayam

PETITIONER/S:

SOORAJ SOMAN
AGED 35 YEARS
RESIDING AT CHERUVELIPARAMBU, CHAKRATHIKUNNU, THRIKODITHANAM P. O, KOTTAMURICKAL, KOTTAYAM, PIN - 686105

BY ADVS.
ADHIL P.
SHABEER ALI MOHAMED

RESPONDENT/S:

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031

2 **STATION HOUSE OFFICER**
CHANAGANSSERY POLICE STATION, CHANGANASSERY, KOTTAYAM, PIN - 686101

OTHER PRESENT:

SRI G SUDHEER, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11.04.2025, ALONG WITH Bail Appl..5000/2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:32096

P.V.KUNHIKRISHNAN, J

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B.A. Nos. 4985 & 5000 of 2025

Dated this the 11th day of April, 2025

O R D E R

These Bail Applications are filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita. These bail applications are connected and therefore, I am disposing of these bail applications by a common order.

2. The petitioners are accused Nos. 2 and 3 in Crime No. 681/2025 of Changanassery Police Station. The above case is registered against the petitioners alleging offences punishable under Secs. 115(2), 118(1), 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS). The Public Prosecutor submitted that Sec. 118(2) BNS is also added.

3. The prosecution case is that on 30.03.2025 at 4.30 am,, the accused persons 1- 4 due to the previous enmity

with the defacto complainant, confronted the defacto complainant in front of a shop and the 1st accused hit and inflicted injury on him using a knife. The accused 2 to 4 hit the defacto complainant using their hands and thereby assaulted him.

4. Heard counsel for the petitioner and the Public Prosecutor.

5. The counsel for the petitioner submitted that even if the entire allegations are accepted, there is no serious overtact attributed to the petitioners. The counsel submitted that the petitioners are ready to abide any conditions, if this Court grant them bail. The Public Prosecutor opposed the bail application. The Public Prosecutor submitted that the petitioner in BA No. 4985/2025 is involved in another case also.

6. This Court considered the contentions of the petitioners and the Public Prosecutor. The petitioners are the 2nd and 3rd accused in the above crime. A perusal of the FIS would show that the main overtact is attributed to the 1st petitioner. He used the weapon. The allegation against the petitioners is that

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they assaulted using their hands. Considering the facts and circumstances of this case, I think the petitioner can be released on bail after imposing stringent conditions.

7. 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.

8. 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."

9. 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.

10. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, these Bail Applications are allowed with the following directions:

1. The petitioners shall appear before the Investigating Officer within two

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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) 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 him/her from disclosing such facts to the Court or to any

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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. 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 information, if any, given by the petitioners even while the petitioner is 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].

7. The observations and findings in this order is only for the purpose of deciding this bail application. The principle laid down by

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this Court in ***Anzar Azeez v. State of Kerala*** [2025 SCC OnLine KER 1260] is applicable in this case also.

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

SKS