

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 11TH DAY OF MAY, 2020 / 21ST VAISAKHA, 1942

B.A.NO.1501 /2020

(CRIME NO. 80/2020 OF PONNANI POLICE, MALAPPURAM DISTRICT)

PETITIONERACCUSED:-

RAVI. M.V, AGED 42 YEARS,

S/O. KUMARAN, MUKKATHUVALAPPIL HOUSE,

ESHWARAMANGALAM (PO), PONNANI TALUK, MALAPPURAM DISTRICT.

BY ADV. K.B.ARUNKUMAR

RESPONDENTS/STATE

1.THE STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.PIN-682031.

2.THE SUB INSPECTOR OF POLICE,

PONNANI POLICE STATION, MALAPPURAM DISTRICT. PIN- 679 577.

SRI. AJITH MURALI, PP

SRI. SANTHOSH PETER SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A. No. 1501 of 2020

Dated this the 11th day of May, 2020

ORDER

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the accused in Crime No.80/2020 of Ponnani Police Station. Above case is registered against the petitioner alleging offence punishable under Section 420 of the IPC.

3. The prosecution case is that, on 12.2.2020 at about 10 hours, the accused who was in possession of a cheque numbered as 18686 drawn on Dhanlaxmi Bank, Ponnani Branch, belongs to the defacto complainant, and without the knowledge and consent of the defacto complainant, misused the same and withdrawn an amount of Rs.7,00,000/- by using the said cheque and thus committed the alleged offence.

4. The counsel for the petitioner submitted that, even if the entire allegations are accepted, it is only a money dispute, and no offence under Section 420 of the IPC is made out.

5. The learned Public Prosecutor submitted that, if this Court is granting bail to the petitioner, stringent conditions may be imposed.

6. After hearing both sides, I think this bail application can be allowed. From a reading of the allegation against the petitioner, it is clear that, it is a money dispute between the petitioner and the defacto complainant. Whether a criminal offence is made out from the facts and circumstances of the case, is to be investigated by the Investigation Officer. For that purpose, custodial interrogation of the petitioner may not be necessary. Hence, this bail application can be allowed.

7. 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 **Writ Petition(C)No.9400 of 2020** issued various salutary directions for minimizing the number of inmates inside prisons.

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. 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 proposes to arrest the petitioner, he shall be released on bail 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. The petitioner shall appear before the Investigating Officer as and when required. The petitioner shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. The petitioner 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 declared lock-down.

5. 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.

P.V.KUNHIKRISHNAN, JUDGE

MMG