

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 08TH DAY OF MAY, 2020 / 18TH VAISAKHA, 1942

B.A. NO.2440 /2020

[CRIME NO. 246 OF 2020 OF KURUPPANPADI POLICE STATION]

PETITIONER / ACCUSED NO.2

LINTO AGED 23 YEARS,
S/O LIJO
MANNAMKUZHY HOUSE,
KOMBANAD P.O,
PANAMKUZHY,
ERNAKULAM DISTRICT

Adv. BINU PAUL

RESPONDENT / STATE & COMPLAINANT

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM- 682 031
2. INSPECTOR OF POLICE
KURUPPAMPADI-683 545

SRI. AJITH MURALI, PP
SRI. SANTHOSH PETER SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 08.05.2020, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.2440 of 2020

Dated this the 8th day of May, 2020

O R D E R

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. Petitioner is the 2nd accused in Crime No.246 of 2020 of Kuruppampadi Police Station. The above case is registered against the petitioner and others alleging offence punishable under Section 380 read with Section 34 of the Indian Penal Code.

3.The prosecution case is that on 15.03.2020, at 2.30 am, the accused along with accused nos.1, 3 and 4, stolen a cow aged 8 years and a calf aged 3 years from the cattle shed of the de facto complainant.

4. The counsel for the petitioner submitted that the petitioner is in custody from 04.04.2020 onwards. The cow and the calf already recovered. Indefinite incarceration of the

petitioner is not necessary.

5.The learned Public Prosecutor submitted that the petitioner is involved in 9 other cases. Therefore, he opposed the bail application.

6.After hearing both sides, according to me, this is not a fit case, in which the bail can be granted. The petitioner is involved in 9 other cases. The incident alleged in this case happened at midnight on 15.03.2020. If the petitioner is released on bail at this stage, it will give a wrong signal to the society. Therefore, the petitioner is not entitled for bail.

7. Moreover, the jurisdiction to grant bail has to be exercised on the well settled principles laid down by the Hon'ble Supreme Court in **Chidambaram P v Central Bureau of Investigation (AIR 2019 SC 5272)** the following factors are to be taken into consideration while considering the application for bail.

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials

relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

It is true that there is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be decided on the basis of the facts and circumstances of that case. In the light of the general principles laid down in the above judgment and considering the facts and circumstances of this case, I am of the opinion that this is not a fit case in which the petitioner

can be released on bail. Hence this Bail Application is dismissed.

P.V.KUNHIKRISHNAN, JUDGE

YKB