

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN**

**FRIDAY, THE 15TH DAY OF MAY 2020 / 25TH VAISAKHA, 1942**

**BA NO. 2777 OF 2020**

(CRIME NO.339 OF 2020 OF KODUNGALLUR POLICE STATION,  
THRISSUR DISTRICT)

Petitioner/Accused

Saneesh, aged 38 years  
S/o Subramanian, Kalathil (H)  
Poya Bazar Desom, Azhikode Village  
Kodungallur, Thrissur

By Adv. Sri I.Dinesh Menon, L. Rajesh Narayan Iyer

Respondent/complainant:

State of Kerala, represented by Sub Inspector of Police  
Kodungallur Police station through the Public Prosecutor  
High Court of Kerala, Ernakulam

By P.P. Sri.B.JAYASURYA (SR) & C.K.PRASAD

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 15.05.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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**B.A.No. 2777 of 2020**  
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**Dated this the 15<sup>th</sup> day of May, 2020**

**O R D E R**

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. 339 of 2020 of Kodungallur Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 406 and 420 of the Indian Penal Code.

3. The prosecution case is that, a Royal Enfield bike was given to the petitioner for display, but the petitioner sold the same and misappropriated the amount.

4. The counsel for the petitioner submitted that, he is involved in some other cases also. He is settling all the cases. In three cases, he was arrested and released on bail. He produced Anx.A2 order, showing that he was released on bail in Crime No. 260/20 of Eramalloor Police Station. He produced Anx.A1, to show that, in one of the case the matter

is already settled. The learned counsel for the petitioner submitted that, if this Court grant bail, this case also can be settled.

5. The learned Public Prosecutor submitted that the petitioner is involved in other cases also with similar allegations. He also submitted that, if this Court is granting bail, stringent conditions may be imposed.

6. After hearing both sides, I think this bail application can be allowed. One aspect is to be noted that, the petitioner was released on bail in some of the cases after arrest. It is also to be noted that, the petitioner is trying to settle the matter as evident by Anx.A1. The learned counsel for the petitioner submitted that, if this Court grant bail to the petitioner, the petitioner will settle the dispute in this case immediately. Considering the facts and circumstances of this case and considering the submission of the learned counsel for the petitioner and the submission of the learned Public Prosecutor, I think 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 **W.P(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 propose 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.

Sd/-  
**P.V.KUNHIKRISHNAN,**  
**JUDGE**