

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.9008 OF 2019

(Crime No. 341/2019 of Valancherry Police, Malappuram District)

Petitioner/ Petitioner:-

Muhammed.B.K, aged 37 years,
S/o. ImbichiBava, Beerankuttikanttakath House,
Ponnani Nagaram, Ponnani (PO),
Malappuram District.

ADV.SRI.K.B.ARUN KUMAR

Respondents/ Respondents and Addl. 3rd and 4th Respondents:

1. The State of Kerala, represented by the Public Prosecutor,
High Court of Kerala, Ernakulam.Pin-682031.
2. The Sub Inspector of Police,
Valancherry Police Station, Malapruam District. Pin- 676 552.
3. Ranjith.K, (age not known),
S/o. Suresh, Kunnath House, Edayur (PO),
Tirur Taluk, Malappuram District. Pin- 676 552.
4. The Deputy Commissioner,
Kerala State Goods and Services Tax Office, Civil Station Road, Uphill,
Malappuram. Pin: 676 505.

BY P.P.SRI.AJITH MURALI & SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
06.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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.9010 OF 2019

(Crime No. 340/2019 of Valancherry Police, Malappuram District)

Petitioner/ Petitioner:-

Muhammed.B.K, aged 37 years,
S/o. ImbichiBava, BeerankuttikanttakathHouse,
Ponnani Nagaram, Ponnani (PO),
Malappuram District.

By Adv. Sri. K.B.ARUNKUMAR

Respondents/ Respondents and Addl. 3rd and 4th Respondents:

1 The State of Kerala, represented by the Public Prosecutor,
High Court of Kerala, Ernakulam.Pin-682031.

2 The Sub Inspector of Police,
Valancherry Police Station, Malapruam District. Pin- 676 552.

3 Sudheesh, (age not known),
S/o. Unnikrishnan, Palliyalil Thodii House, Edayur (PO),
Tirur Taluk, Malappuram District. Pin- 676 552.

4. The Deputy Commissioner,
Kerala State Goods and Services Tax Office, Civil Station Road,
Malappuram. Pin: 676 505.

R1, R2 & R4 BY P.P.SRI.AJITH MURALI & SANTHOSH PETER(SR)

R3 BY Adv. Sri. Dr. Mathew A. Kuzhalanadan

**THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
06.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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.9014 OF 2019

(Crime No. 343/2019 of Valancherry Police, Malappuram District)

Petitioner/ Petitioner:-

Muhammed.B.K, aged 37 years,
S/o. Imbichi Bava, Beerankuttikanttakath House,
Ponnani Nagaram, Ponnani(PO),
Malappuram District.

BY ADV.K.B.ARUNKUMAR

Respondents/ Respondents and Addl. 3rd and 4th Respondents:

- 1 The State of Kerala, represented by the Public Prosecutor,
High Court of Kerala, Ernakulam.Pin-682031.
2. The Sub Inspector of Police,
Valancherry Police Station, Malapruam District. Pin- 676 552.
3. Faizal.V.V, Aged 37 years,
S/o. Saithali, Valiya Valappil House, Valiyakunnu (PO),
Tirur Taluk, Malappuram District. Pin- 676 552.
4. The Deputy Commissioner,
Kerala State Goods and Services Tax Office, Civil Station Road,
Malappuram. Pin: 676 505.

BY P.P.SRLAJITH MURALI & SANTHOSH PETER(SR)

**THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
06.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**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.8599 OF 2019

(Crime No. 329/2019 of Valancherry Police, Malappuram District)

Petitioner/ Petitioner:-

Muhammed.B.K, aged 37 years,
S/o. Imbichi Bava, Beerankuttikanttakath House,
Ponnani Nagaram, Ponnani(PO),
Malappuram District.

BY ADV.K.B.ARUNKUMAR

Respondents/ Respondents and Addl. 3rd and 4th Respondents:

- 1 The State of Kerala, represented by the Public Prosecutor,
High Court of Kerala, Ernakulam.Pin-682031.
2. The Sub Inspector of Police,
Valancherry Police Station, Malapruam District. Pin- 676 552.
3. Faizal.V.V, Aged 37 years,
S/o. Saithali, Valiya Valappil House, Valiyakunnu (PO),
Tirur Taluk, Malappuram District. Pin- 676 552.
4. The Deputy Commissioner,
Kerala State Goods and Services Tax Office, Civil Station Road,
Malappuram. Pin: 676 505.

BY P.P.SRLAJITH MURALI & SANTHOSH PETER(SR)

**THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
06.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

P.V.KUNHIKRISHNAN, J.

B.A.Nos.9008, 9010, 9014 & 8599

Dated this the 8th day of May, 2020

O R D E R

These Bail Applications filed under Section 438 of Criminal Procedure Code were heard through Video Conference.

2. All these bail applications are filed by the same person who is involved in four separate crimes of Valancherry Police Station, Malappuram, in which the allegations are one and the same. B.A Nos.9008/2019, 9010/2019 and 9014/2019 were listed on 6.5.2020. The learned counsel for the petitioner submitted that one connected bail application, which is numbered as B.A. No.8599/2019 is not listed. The learned counsel for the petitioner and the learned Public Prosecutor agreed that B.A. No.8599/2019 also can be called for and disposed of along with these bail applications. Hence B.A.No.8599/2019 also called and heard along with the other three bail applications on 6.5.2020.

3. The petitioner is the 3rd accused in Crime Nos.341/2019, 340/2019, 343/2019 and 329/2019 of Valancherry Police Station

which was registered based on a complaint received from the Judicial First Class Magistrate Court, Tirur. All the cases are registered against the petitioner and others alleging the offence punishable under Sections 419, 420, 468 and 471 r/w 34 of the Indian Penal Code.

4. The prosecution case in brief is that the accused person with an intention to cheat and to gain undue profit, misused the GST number of the defacto complainant and thereby misappropriated huge amount. In B.A.No.9010/2019, the allegation is that, there is misappropriation of Rs.28 crores. In B.A.No.9014/2019 the allegation is that there is misappropriation of Rs.3.8 crores. In B.A.No.9008/2019, the allegation is that there is misappropriation of Rs.22 crores and in B.A.No.8599/2019 the allegation is that, there is misappropriation of Rs.150 crores.

5. The learned counsel for the petitioner submitted that the petitioner is only the 3rd accused and he is innocent of the cases. He is only a fish vending merchant. The 1st and the 2nd accused are Chartered Accountants.

6. The learned Public Prosecutor opposed the bail applications and contended that, this is a serious case in which detailed investigation is necessary. According to the learned Public

Prosecutor, it is an economic offence involving crores and crores of rupees in which detailed investigation, including custodial interrogation of the petitioner, is necessary.

7. The defacto complainant in Crime No.341/2019 was impleaded as additional 3rd respondent in B.A.No.9008/2019. The 3rd respondent filed a written objection in which he submitted that he is a proprietor of a registered proprietorship concern having registration under the KGST & CGST Act, 2017. During May, 2019, three persons namely Rashid, Faisal Nazar and Mohammed B.K approached him through a friend and they themselves introduced as wholesale dealers of arecanut and coconut. They mooted a business proposal to the 3rd respondent that, if the 3rd respondent helps them in the trade of wholesale business in arecanut by obtaining a trade license and GST registration in the name of the petitioner and enable them to carry out the business using the license, he will be given handsome commission from the profits so received from the business. Believing the words of the accused, it is stated that the 3rd respondent handed over his Aadhar Card, PAN Card and other necessary details to the said persons for taking the GST registration. It is stated that the accused convinced the 3rd respondent to open a bank account for the purpose of the business and it was started.

Later the 3rd respondent understood that certain bogus transactions were done using his GSTIN by raising fake e-way bills and was operated through his bank account. Hence the 3rd respondent filed a private complaint before the Judicial First Class Magistrate Court, Tirur based on which Crime No.341/2019 was registered by the Valancherry Police against the accused. According to him a serious fraud is committed by the accused including the petitioner. The 3rd respondent also produced Annexure R3(c) notice received from the 5th respondent under the SGST/CGST Act, 2017. He also produced Ext.R3(d) demand notice received by him for an amount of Rs.2,27,85,320/-. The 3rd respondent submitted that the petitioner, who is the 3rd accused in the case is actively involved in this case. Hence bail may not be granted.

8. After hearing both sides, I think that this is not a fit case in which the extraordinary jurisdiction under Section 438 Cr.P.C can be invoked. The complaints filed by the respective defacto complainant are produced by the petitioner in all the four cases. I have perused the complaint. On going through the complaint, it is clear that its a serious case in which a detailed investigation is necessary. A perusal of the complaint will show that it is an economic offence. The Hon'ble Supreme Court in **Chidambaram. P v Directorate of**

Enforcement (AIR 2019 SC 4198) observed that in economic offences the extraordinary jurisdiction under Section 438 Cr.P.C need not be invoked. The relevant portion of the judgment in **Chidambaram's** case is extracted hereinbelow:

“Power under S.438 Cr.P.C being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok Kumar Jain (1998 KHC 518: (1998)(2)SCC 105: 1998(2) KLT SN 4: 1998 SCC (Cri.) 510: AIR 1998 SC 631: 1998 CriLJ 861), it was held that in economic offences, the accused is not entitled to anticipatory bail. Grant of anticipatory bail at this stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.”

I think that a detailed investigation is necessary in all the four cases. Therefore, I think that this is not a fit case in which extraordinary jurisdiction of this Court under Section 438 Cr.P.C can be invoked. Therefore, these bail applications are dismissed.

P.V.KUNHIKRISHNAN
JUDGE