

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 13TH DAY OF MAY 2020 / 23RD VAISAKHA, 1942

BA NO.9266 OF 2019

(IN CRIME NO: 3639/2019 OF KOTTARAKARA POLICE STATION, KOLLAM
DIST)

PETITIONER

PRASANTH CHANDRAN, AGED 37 YEARS,
S/O RAMACHANDRAN, CHANDRALAYAM
PATHIYOOR, KAYAMKULAM

BY ADVS.SRI.R.SUNIL KUMAR, SMT.A.SALINI LAL & ARUN
KRISHNA

RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP BY
S.I OF POLICE, KOTTARAKARA POLICE STATION
KOLLAM BY PUBLIC PROSECUTOR -
HIGH COURT OF KERALA, ERNAKULAM

BY P.P. SRI.B.JAYASURYA (SR) & SRI. C.K.PRASAD

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 13.05.2020,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.9266 of 2019

Dated this the 13th 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. Petitioner is the accused in Crime No. 3639 of 2019 of Kottarakkara Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 420 and 406 IPC.

3.The prosecution case is that, the defacto complainant, is a divorcee having two children. According to the prosecution, the accused, with an intention to cheat her and to make unlawful gain, made acquaintance with the defacto complainant and on 14.10.2017, the accused married the defacto complainant at Aayiravally Sree Vanadurga Temple. The

further case of the prosecution is that the accused took Rs.3 lakhs from the defacto complainant and thereby cheated her.

4. The counsel for the petitioner submitted that, the petitioner has not committed any offence. The counsel for the petitioner has also submitted that, even if the entire allegations are accepted, it is only a money dispute or at the maximum, a matrimonial dispute. No offence under Sections 420 and 406 IPC is made out.

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

6.After hearing both sides, I think that this Bail Application can be allowed. The case of the defacto complainant is that she married the petitioner on 14.10.2017 from a temple and thereafter, the petitioner refused to register their marriage. The further case of the complainant is that, the petitioner took 3.5 lakhs of

her. On going through the averments in the complaint, as submitted by the counsel for the petitioner, it can either be a matrimonial dispute or a money dispute. *Prima facie*, I am not in a position to accept that, offence under Sections 420 and 406 IPC is made out. I make this observation only for considering this Bail Application. The Investigating Officer is free to investigate the case in detail and find out any offence is made out in this case. Considering the facts and circumstances of the case, 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 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 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 with law, even though the bail is granted by this Court.

SD/-

P.V.KUNHIKRISHNAN, JUDGE

RK