

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 06TH DAY OF MAY 2020 / 16TH VAISAKHA, 1942  
B.A.TMP NO.101 OF 2020

(CRIME NO 244/2020 OF TANUR POLICE STATION, MALAPPURAM DISTRICT)

PETITIONER/ACCUSED.

SHAMSEER,  
S/O MUHAMMED KUTTY, AGED 36  
YEARS, AYYANPALLI HOUSE, KALAD,  
NIRAMARUTHUR PO, TANUR,  
MALAPPURAM- 676109

BY ADV. SRI. PC ANIL KUMAR (K/405/2005) (A-903)

RESPONDENTS/COMPLAINANTS:

1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.
2. THE SUB INSPECTOR OF POLICE, TANUR, MALAPPURAM.

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:

**P.V.KUNHIKRISHNAN, J.**

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**B.A. TMP No. 101 of 2020**  
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**Dated this the 6<sup>th</sup> 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.244/2020 of Tanur Police Station registered alleging offences punishable under Sections 498(A), 323 & 371 of the IPC.

3. The prosecution case is that, the petitioner herein misappropriated the gold ornaments and money of the defacto complainant. It is also alleged that there is physical and mental cruelty from the petitioner towards the defacto complainant.

4. The learned Public Prosecutor submitted that, since this is a matrimonial dispute, bail can be granted on stringent conditions.

5. After hearing the learned Public Prosecutor and considering the fact that this is a family dispute, in the interest

of justice, I think, the petitioner can be granted bail on stringent conditions.

6. 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.

7. 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.

8. 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 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