

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.S.DIAS

WEDNESDAY, THE 29TH DAY OF APRIL, 2020/9TH VAISAKHA, 1942

B.A TMP 184 OF 2020

(Crime No.85/2020 of Kottayi Police Station, Palakkad District)

Petitioners/Accused Nos, 1 to 5

1. *Rizwan All, aged 29 years,
S/o Basheer All, Banglavil
House, Vetukkad, Mathoor
Panchayath, Palakkad District,*
2. *P.B.Basheer Ali, aged 68 years,
S/O.Usman, Banglavii House, Anikkode, Kottayl-1, Palakkad District*
3. *P.M.Zeenath, aged 59 years, W/O.Basheer Ali, Banglavil House,
Anikkode, Kottayl-1, Palakkad District,*
4. *Subair P.A, aged 48
years, S/O.P.M.Ayamutty,
Poovathinkal House, Chettathara,
Pezhumkara, Pallippuram P.O,
Palakkad.*
5. *Haris B.B, aged 36 years, S/o
Basheer All, Banglavil House,
Anikkode, Kottayi-1, Palakkad
District. .*

BY. Adv. Nireesh Mathew

Respondent/Complainant:

State of Kerala, represented by the Public Prosecutor, High Court of Kerala,

Ernakulam, Kochi - 682 031.

BY PUBLIC PROSECUTOR SMT.PUSHPALATHA M.K.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This is an application for pre-arrest bail filed under Section 438 of the Code of Criminal Procedure.

2. The petitioners are accused 1 to 5 in Crime No.85 of 2020 of the Kottayi Police Station. The petitioners are alleged to have committed the offences punishable under Sections 498A, 323, 406, 506 r/w 34 of the Indian Penal Code.

3. The prosecution case, in brief, is that: the 1st accused married the de facto complainant on 23.06.2019. While the couple was residing at Bangalore for the purpose of employment, the petitioners subjected the de facto complainant to mental and physical cruelty demanding more dowry from her. Thus, the petitioners have committed the above offences.

..4..

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor via video-conferencing.

5. The learned counsel for the petitioners argued that the petitioners are absolutely innocent of the allegations levelled against them. The petitioners have never subjected the de facto complainant to any type of cruelty, as alleged in the FIR. The de facto complainant was never interested in continuing with the marriage. The de facto complainant has falsely foisted the above crime only to pressurise the petitioners to concede to her extortious demands. Hence, the petitioners may be enlarged on bail.

6. The learned Public Prosecutor opposed the application. However, he conceded to the fact that the crime has been registered out of the matrimonial dispute between the de facto complainant and the petitioners. Even if the petitioners are enlarged on bail, stringent

conditions may be enlarged against them and they may be directed to cooperate with the investigation.

7. On a cumulative appreciation of the facts and circumstances of the case, particularly considering the fact that the crime has been registered out of the matrimonial disputes between the petitioners and the de facto complainant; that there is no recovery to be effected; that the petitioners' custodial interrogation is not necessary, I am convinced that this is a fit case to grant the petitioners an order of pre-arrest bail as provided under Section 438 of Code of Criminal Procedure.

8. In the result, this bail application is allowed. The petitioners shall surrender before the Investigating Officer on or before 08.05.2020. Upon their surrender, they shall be released on bail by the Investigating Officer, subject to the following conditions:-

..6..

(i) The petitioners shall be released on bail, on executing a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) each, with two solvent sureties for the likesum, in the event of the arrest by the Police in connection with the crime

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer, as and when required by him. The petitioners shall also cooperate with the investigation of the case.

(iii) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

..7..

(iv) The petitioners shall not commit any offence while on bail.

(vi) Needless to mention that, if the petitioners violate any of the above conditions, the Investigating Officer shall be at liberty to move the jurisdictional Court and file appropriate application seeking cancellation of this bail order .

With the above observations, this Bail Application is allowed.

C.S.DIAS, JUDGE

kkj