

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 05TH DAY OF MAY 2020 / 15TH VAISAKHA, 1942

BA TMP.NO.208 OF 2020

(Crime No.993 of 2019 of Punnapra Police Station, Alappuzha District)

Petitioners/ Accused Nos 8 and 10 :

1. Jaison @ Jomon , 19 years,
S/o of Job
Valiyaveetil, Ward No. 13
Punnapra South Panchayath,
Alappuzha.

2. Praveen , 28 years S/o Joy
Vadakeyattathu Veedu, Ward No.16
Punnapra North Panchayath,
Alappuzha.

By Adv. Sri.Manu Harshakumar

Respondents:

1. State of Kerala, Represented by the Public Prosecutor,
High Court of Kerala, Ernakulam, Kochi 682031.
2. The Circle Inspector of Police, South Police Station,
Alappuzha.

BY Public Prosecutor SRI.AJITH MURALI & SRI.SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
05.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A.TMP.No.208 of 2020

Dated this the 5th day of May, 2020

O R D E R

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. The petitioners are the 8th and 10th accused in S.C.No.1/2020 on the file of the Additional Sessions Court-II, Alappuzha. The above case is charge sheeted by the Punnapra Police against the petitioners and others alleging offences punishable under Sections 143, 147, 148, 323, 324, 326, 364, 118, 302 and 201 read with Section 149 of the Indian Penal Code.

3. The prosecution case is that, one Manu @ Kakan Manu was missing on 19.8.2019 and a case was registered originally under Section 57(1)A of the Kerala Police Act. The further case of the prosecution is that, on investigation, it was found that the accused in this case murdered him and buried

his body in the seashore. There are about 13 accused in the case. The petitioners were arrested on 31.8.2019 and 11.9.2019 respectively.

4. The counsel for the petitioners submitted that the investigation in the above case is over and final report is filed. The trial in the case is not started even now. Hence the petitioners may be granted bail.

5. The learned Public Prosecutor submitted that the petitioners committed serious offence. This Court dismissed the Bail Application earlier and hence similar prayer may not be considered by this Court again.

6. After hearing both sides, according to me, this is not a fit case, in which the bail can be granted. This Court, as per Annexure-A3 order, considered the bail application and dismissed the bail application. This Court considered the bail application, after the final report is submitted by the police before the court below. Even then this Court refused to grant bail to the petitioners. In such circumstances, I think I am not justified in entertaining this bail application again, in the light

of Annexure-A3 order passed by this Court.

7. Moreover, the jurisdiction to grant bail has to be exercised on the well settled principles laid down by the Hon'ble Supreme Court in **Chidambaram P v Central Bureau of Investigation (AIR 2019 SC 5272)** the following factors are to be taken into consideration while considering the application for bail.

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character behaviour and standing of the accused and the circumstances which are

peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

It is true that there is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be decided on the basis of the facts and circumstances of that case. In the light of the general principles laid down in the above judgment and considering the facts and circumstances of this case, I am of the opinion that this is not a fit case in which the petitioners can be released on bail. Hence this Bail Application is dismissed.

P.V.KUNHIKRISHNAN, JUDGE

skj