

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

THURSDAY, THE 30TH DAY OF APRIL 2020 / 10TH VAISAKHA,
1942

BAIL APPL.TMP NO. 211 OF 2020

(CRIME NO.292 OF 2020 OF KODUNGALLUR POLICE STATION,
THRISSUR DISTRICT)

PETITIONER/ACCUSED

SANEESH, AGED 38 YEARS
S/O SUBRAMANIAN, KALATHIL (H)
POY BAZAR DESOM, AZHIKODE VILLAGE
KODUNGALLUR, THRISSUR-680 664

BY ADVS.I.DINESH MENON,
L. RAJESH NARAYAN IYER

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED
BY SUB INSPECTOR OF POLICE
KODUNGALLUR POLICE STATION
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.

BY PUBLIC PROSECUTOR SRI.AJITH MURALI

. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30.04.2020, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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V.G.ARUN, J.

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Dated this the 30th day of April, 2020.

ORDER

The petitioner is the accused in Crime No.292 of 2020 of the Kodungallur Police Station registered for commission of offences punishable under Sections 406 and 420 of the Indian Penal Code. The prosecution allegation, in brief, is that the petitioner had purchased a Royal Enfield Thunderbird Motorcycle worth Rs.1,92,453/- from Heritage Automobiles, but contrary to the promise to make payment immediately, the petitioner did not pay the amount nor return the motorcycle. Thereupon the Sales Manager of the Heritage Automobiles lodged a complaint, consequent to which the crime was registered and the petitioner arrested on 15.03.2020.

2. The learned counsel for the petitioner would submit that it is only due to the prevailing adverse scenario that the

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petitioner failed to make payment and that in two other cases of similar nature, the petitioner has already been enlarged on bail.

3. The learned Public Prosecutor would submit that the petitioner has indulged in offences of similar nature, the investigation of which are also under progress.

4. The well accepted principle of bail being the rule and jail the exception, has been reiterated by the Honourable Supreme Court time and again. [See **Nikesh Tarachand Shah v. Union of India [2018 (11) SCC 1 and P.Chidambaram v. Directorate of Enforcement [AIR 2019 SC 5272]**].

5. Considering the need to follow social distancing norms inside prisons so as to avert the spread of the novel Corona-virus pandemic, the Honourable 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 minimising the number of inmates inside prisons.

Considering the fact that the offences alleged against the

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petitioner are under Sections 406 and 420 of the Indian Penal Code and that the petitioner has been in custody from 15.03.2020, I am inclined to grant bail to the petitioner. In the circumstances, the bail application is allowed and the petitioner is directed to be released on bail subject to the following conditions:-

- i) The petitioner shall furnish to the Superintendent of the jail where he is incarcerated, his phone number and the address at which he would be residing after his release. The petitioner shall also provide the address of his proposed sureties and two of his near relatives and submit an undertaking that on release, he would abide by the conditions of the lock down imposed by the Central and State Government and be in quarantine, if so required.
- ii) On the aforementioned conditions being satisfied, the Superintendent of the Jail shall release the petitioner with due intimation about such release to the Station House Officers of the Police Station where the crime

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against the petitioner has been registered and the Police Station within the jurisdiction of which the petitioner would be residing.

- iii) Immediately after release from prison, the petitioner shall report before the Station House Officer of the jurisdictional Police Station and shall produce a copy of the undertaking he had furnished before the Jail Superintendent. The Station House Officer concerned shall keep vigil on the whereabouts of the petitioner and shall ensure that the petitioner does not violate the terms of the undertaking.
- iv) The petitioner shall, within one week from commencement of functioning of the jurisdictional court, if the court is not functioning at present, execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Court.
- v) The petitioner shall co-operate with the

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investigation and shall not threaten or make any attempt to influence witnesses or tamper with the evidence.

**V.G.ARUN
JUDGE**

YKB/30.4.2020