

**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.244 OF 2020

**(Crime No. 1641 of 2018 of Kottayam East police Station,
Kottayam District)**

Petitioner/ sole Accused

Shameem.P, Aged 30 years,
Occ: Business
S/o Ibrahim Kulathinkal Veedu,
Kammadam Bhagam, Parappa P.O ,
Parappa Kara, Parappa Village,
Kasargod District, Kerala State.

By Adv. Shri. B. A. Aloor

Respondents/Complaints

- 1.** State of Kerala
Represented by Public Prosecutor
High Court of Kerala,
Ernakulam,
Kochi-682 031.
- 2.** The SHO,
Kottayam East Police Station,
Kottayam.

BY P.P.SRI.AJITH MURALI & 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. 244 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. Petitioner is the accused in CC.No.1/2019 on the files of Chief Judicial Magistrate Court, Kottayam. The above case is chargesheeted by the Kottayam East Police Station against the petitioner alleging the offences punishable under Sections 406, 465, 468, 471, 419 and 420 of the Indian Penal Code. The petitioner was arrested on 5.12.2019.

3. The prosecution case is that the petitioner committed forgery, cheating etc.

4. The counsel for the petitioner submitted that the petitioner was arrested on 5.12.2019 and he is in custody from that date onwards. He is ready to abide by any conditions, if this Court grant bail.

5. The learned Public Prosecutor opposed the bail application and submitted that the petitioner is involved in eight other crimes with similar allegations. Originally, the petitioner was granted bail and he absconded. After absconding, the petitioner was arrested in another case and the petitioner is in remand in this case after issuing production warrant by the court.

6. After hearing both sides, according to me, this is not a fit case, in which the bail can be granted. Originally, the petitioner was granted bail. He violated the conditions and absconded. Thereafter he was arrested again on 5.12.2019. The petitioner is involved in eight other crimes of similar nature. In such circumstances, this Court is not in a position to grant him bail at this stage.

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 petitioner can be released on bail. Hence this Bail Application is dismissed.

**P.V.KUNHIKRISHNAN
JUDGE**

ab