

**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.258 OF 2020**

(Crime No.111/2020 of Koratty Police Station, Trissur District)

PETITIONER/ACCUSED

Koshy Philip, aged 33 years, S/o Achankunju,  
APVV House,Nallila.P.O.,  
Nedumpana, Kollam District  
PIN- 691576.

By Adv.M.L.SURESHKUMAR,

RESPONDENTS / STATE:

1. State of Kerala represented by Public prosecutor  
High Court of Kerala at Ernakulam.
2. The Circle Inspector of Police,  
Koratty Police Station,  
Trissur District.

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.No.258 of 2020  
-----

Dated this the 5<sup>th</sup> 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 Crime No.111/2020 of Koratty Police Station registered alleging offences punishable under Section 420 IPC. Petitioner was arrested on 5.3.2020 and he is in custody.

3.The prosecution case is that the petitioner offered Visa for the purpose of job in gulf to the defacto complainant and obtained amount. The petitioner had not taken any steps to avail Visa to the defacto complainant. Hence the case is registered. The petitioner is in custody from 5.3.2020 onwards.

4. The learned Public Prosecutor submitted that he is involved in two other cases of similar nature; one at Thiruvalla and another at Kottayam.

5. The learned counsel for the petitioner submitted that he is on bail in the Thiruvalla case and the bail application is pending

consideration in the Kottayam case.

6. Considering the facts and circumstances of the case and the period of detention of the petitioner, I think that the petitioner can be released on bail. Moreover it is to be noted that the defacto complainant is simply giving money to the accused for getting Visa. It is commonsense that nobody can arrange Visa and it can be obtained only in accordance with law. Anyway, it is a matter to be investigated by the police. At this distance of time, continued detention of the petitioner is not necessary.

7. 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 **W.P(C)No.9400 of 2020** issued various salutary directions for minimizing the number of inmates inside prisons.

8. 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.

9. 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 Superintendent of Jail concerned where the petitioner is incarcerated is directed to release the petitioner on bail on executing a self bond ensuring that they will appear before the Court concerned as and when required, if he is not in detention in any other case. It is further directed that the Superintendent of Jail should get the bail bond from the petitioner as stipulated in Section 441 Cr.P.C.

2. The Superintendent of Jail concerned shall also get the phone number and the address at which the petitioner would be residing after his release.

3. The Superintendent of Jail concerned, immediately after release of the petitioner will forthwith forward the bail bond obtained from the petitioner to the jurisdictional Court.

4. The petitioner immediately after release

from the prison, report before the Station House Officer of the Jurisdictional Police Station and shall furnish his phone number and the place where they are going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioner and shall ensure that the petitioner do not violate the terms of the undertaking.

5. 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.

6. The petitioner shall within one week from the commencement of the functioning of the jurisdictional court, if the court is not functioning at present, execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

7. The petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of

social distancing and other directions in the wake of declared lock-down.

8. 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.

Sd/-

**P.V.KUNHIKRISHNAN  
JUDGE**

**ab**