

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 5TH DAY OF MAY, 2020 / 15TH VAISAKHA, 1942

B.A. TMP No. 282 / 2020

(Arising out of C.C No. 54/2018 on the files pending before Ld. CJM Court at  
Kottayam in Cr. No. 1161/2016 of the Kottayam East Police Station)

**PETITIONER/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.

ADV. B.A. ALOOR

**Vs.**

**RESPONDENT/COMPLAINANT:**

**1. State of Kerala**

Represented by Public Prosecutor  
High Court of Kerala,  
Ernakulam,  
Kochi-18.

**2. The SHO,**

Kottayam East Police Station,  
Kottayam.

SRI. AJITH MURALI, PP  
SRI. SANTHOSH PETER, SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05.05.2020, THE  
COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.TMP.No.282 of 2020  
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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 CC No.54 of 2018 on the files of Chief Judicial Magistrate Court, Kottayam. The above case is registered against petitioner alleging offences punishable under Sections 406, 465, 468, 471, 419 and 420 of the Indian Penal Code. Petitioner is in custody from 05.12.2019 onwards.

3.The prosecution case is that the petitioner promised the de facto complainant that he would secured Government job to him and fraudulently obtained money from him.

4. The counsel for the petitioner submitted that he is in custody for the last several days. The petitioner has not committed any offence and he may be released on bail.

5.The learned Public Prosecutor opposed the bail application and submitted that he is involved in 8 other crimes with similar allegations.

6.After hearing both sides, according to me, this is not a fit case, in which the bail can be granted. The petitioner is involved in 8 other cases with same allegation. In some of the cases he was absconding. This court refused bail to the petitioner today in another case which is numbered as BA.TMP.No.244 of 2020. In the light of the facts and circumstances of the case, I think the petitioner is not entitled to bail.

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**

YKB