

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 06TH DAY OF MAY 2020 / 16TH VAISAKHA, 1942

B.A.NO.9498 OF 2019

(CRIME No.1314 OF 2019 OF NEDUMBASSERY POLICE STATION
ERNAKULAM DISTRICT)

PETITIPONER/ACCUSED No.2

Arif Muhammed,
Aged 36 years,
S/o Ibrahimkutty,
Nediyamala,
Randar P.O,
Muvattupuzha
Ernakulam Dist.

BY ADV.Sri.S.SREEDEV

RESPONDENTS/COMPLAINANTS

1.State of Kerala, Represented by Public Prosecutor,
High court of Kerala,Ernakulam,Kochi 682 031.

2. The sub inspector of Police,Nedumbassery police station.

BY PUBLIC PROSECUTOR SRI.AJITH MURALI & SRI.SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 06.05.2020
ALONG WITH B.A.No.9499/2019 THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 06TH DAY OF MAY 2020 / 16TH VAISAKHA, 1942

B.A.NO.9499 OF 2020

CRIME NO 1313 OF 2019 OF NEDUMBASSERY POLICE STATION
ERNAKULAM DISTRICT

PETITIONER/ACCUSED No.2

Arif Muhammed,
Aged 36 years,
S/o Ibrahimkutty,
Nediyamala,
Randar P.O,
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THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 06.05.2020
ALONG WITH B.A.No.9498/2019 THE COURT ON THE SAME DAY PASSED THE
FOLLOWING :

P.V.KUNHIKRISHNAN, J.

B.A.Nos.9498 & 9499 of 2019

Dated this the 6th day of May, 2020

ORDER

These Bail Applications filed under Section 438 of Criminal Procedure Code were heard through Video Conference.

2. Petitioner is the 2nd accused in Crime Nos.1314/2019 & 1313/2019 of Nedumbassery Police Station. The above cases are registered by the Nedumbassery police against the petitioner and another alleging offences punishable under Sections 468 and 471 of the Indian Penal Code along with Section 12(1) of the Passport Act. The allegation against the petitioner in both the cases are one and the same. Therefore, I am disposing these bail applications together.

3. The prosecution case is that, the petitioner is conducting a travel agency called 'Princess Holidays & Travels' at Thodupuzha which give services relating to booking of air ticket for its customers. The further case of the prosecution is that, the 1st accused in both the cases obtained forged visa for

going to Canada from the petitioner who is a travel agent.

4. The counsel for the petitioner submitted that the petitioner is a travel agent and the 1st accused in both the cases approached the petitioner for going to Kuala Lumpur for business purpose and requested to arrange flight ticket, accommodation, etc. The petitioner arranged the same. The petitioner has no connection with the forged visa alleged to be obtained by the 1st accused.

5. The learned Public Prosecutor submitted that the petitioner committed forgery and custodial interrogation is necessary.

6. After hearing both sides, I think these bail applications can be allowed. The objection of the learned Public Prosecutor can be redressed by invoking special conditions in the bail order. The case of the petitioner is that he is a travel agent. According to him, he arranged the travel facility to the 1st accused in both cases for going to Kuala Lumpur. He submitted that, he has no involvement in forging the visa obtained by the 1st accused for going to Canada. Any way, this is a matter to

be investigated by the police. For that purpose, the petitioner shall appear before the Investigating Officer.

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, these

Bail Applications are allowed with the following directions:

1. The petitioner shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioner, he shall be released on bail on executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer concerned.

3. The petitioner shall surrender his passport before the Investigating Officer.

4. 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.

5. The petitioner shall strictly abide by the various guidelines issued by the State

Government and Central Government with respect to keeping of social distancing in the wake of declared lock-down.

6. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance with law, even though the bail is granted by this Court.

P.V.KUNHIKRISHNAN, JUDGE

skj