

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE A. K. JAYASANKARAN NAMBIAR

AND

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

WEDNESDAY, THE 1ST DAY OF APRIL, 2020/12TH CHAITHRA, 1942

B.A. NO. 1934 of 2020

(CRIME NO. 114 OF 2020 OF PARAVOOR POLICE STATION, KOLLAM)

PETITIONERS/ACCUSED NO.S 1 & 2:

1. Sajin, aged 24 years, S/o. Sacharia, Thekkemullil Veedu, Kongal Cherry, Kottappuram Village.
2. Shamsudeen, Aged 24 years, S/o. Majeed, Edachilazhikam Veedu, Near Floarko, Kongal Cherry, Kottappuram Village.

By Adv. Sri. M. R. Sarin Panicker, Sri. M. R. Sasith Panicker

RESPONDENTS:

1. State of Kerala, Represented by the Public Prosecutor, High Court of Kerala, Ernakulam, Pin 682031.
2. The Inspector of Police, Paravoor Police Station, Kollam, Pin 691301.

By Sri.Suman Chakravarthy, Public Prosecutor

This Bail Application having come up for admission on 01/04/2020, the Court on the same day passed the following:-

A.K. JAYASANKARAN NAMBIAR, J.

&

SHAJI P. CHALY, J.

B.A.NO.1934 OF 2020

Dated this the 1st day of April, 2020

ORDER

Shaji P. Chaly, J.

The Petitioners are accused Nos.1 and 2 in Crime no.114/2020 of Paravoor Police Station, Kollam District, registered with the offences punishable under Sections 341, 450, 323, 324, 326, 307 read with Section 34 of the Indian Penal Code. The petitioners were arrested on 23.2.2020 and remain in judicial custody. They seek regular bail under Section 439 of the Code of Criminal Procedure.

2. The application is seriously opposed by the learned Public Prosecutor contending that there is no instruction as to whether any other cases are registered against the petitioners. It is also submitted that the issue in this bail application is taken care of as per the Full Court order of the High Court of Kerala dated 30.3.2020 in W.P.(C).No.9400/2020 [Suo Motu]. However learned counsel for the petitioners submitted that the superintendent of jail has not released the petitioners.

3. Heard the learned counsel appearing for the petitioners and the learned public prosecutor. We have gone through the records which are made available.

4. Though prima facie, the allegations appear to be severe in nature, taking into account the present emergent situation of COVID-19 pandemic and the directives and advisories issued by the Central and State Governments for social distancing and for

decongestion of jails, we are of the considered view that provisional bail can be granted to the petitioners for a period of 30 days.

5. In the result, this application will stand allowed. The petitioners are granted provisional Bail and we direct the Superintendent of the jail wherein, the petitioners are incarcerated to release them on bail on the petitioners executing a personal bond without sureties. The above order shall be subject to the following conditions:

(a) The petitioners shall furnish to the Jail Superintendent the permanent place of their abode and they shall undertake that they shall remain in quarantine for a period of 30 days from the date of this order. They shall also furnish their phone number and the phone number of their immediate relative. Before releasing the petitioners, the Superintendent of jail concerned shall verify the above details. The Superintendent of Jail shall also intimate the release of the petitioners to the SHO of the Police Station which has registered the crime.

(b) On being released from prison, the petitioners shall report before the jurisdictional police station and shall furnish a copy of the undertaking furnished before the Jail Superintendent. The SHO concerned shall ensure that the petitioners do not leave the premises where they have undertaken to remain in quarantine till such time the lockdown period continues in force, otherwise than for emergent situations, and exceptional reasons provided under the orders passed by Central and State Governments, for COVID-19 pandemic.

(c) The petitioners shall not tamper with the evidence or influence, persuade, threaten or coerce any prosecution witnesses in any manner whatsoever.

(d) The petitioners shall not commit any offence while on bail.

(e) On the expiry of 30 days ordered as above or within three days of the withdrawal of the lockdown by the government, whichever is earlier, the petitioners shall appear before the jurisdictional Court and seek regular bail. This provisional bail granted is on the basis of the present emergent situation

also. However, if the accused is committing or attempting to commit any crime during the bail period, it will not deter the police or the jurisdictional court to take appropriate action in accordance with law.

(f) If the petitioners violate any of the conditions above, the Station House Officer may approach the jurisdictional Sessions Court and may move an application for cancellation of bail, which shall be considered and disposed of by the said court notwithstanding the fact that interim bail has been granted by this Court.

A.K.JAYASANKARAN NAMBIAR
JUDGE

SHAJI P. CHALY
JUDGE