

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 22ND DAY OF DECEMBER 2020 / 1ST POUSHA, 1942

Bail Appl..No.8585 OF 2020

CRIME NO.1080/2020 OF Kuruppampady Police Station , Ernakulam

PETITIONER/ACCUSED:

- 1 A. K SHAMSAD
 AGED 45 YEARS
 S.O A.P KUNJUMHAMMED,
 AMBADAN HOUSE, VALLAM KARA,
 CHELAMATTOM VILLAGE,
 ERNAKULAM, PIN-683550

- 2 SIDHIQUE
 AGED 33 YEARS
 S.O KUNJUMHAMMED,
 THRUTHUMALIL HOUSE,
 ALLAPRA, PERUMBAVOOR
 PIN-683556

- 3 ANOOB T. A
 AGED 32 YEARS
 S.O ABDUL KHADER,
 THRUTHUMALIL HOUSE,
 ALLAPRA, PERUMBAVOOR
 PIN-683556

- 4 SHIYAS
 AGED 45 YEARS
 S.O KHALEED A.K, AMBADAN HOUSE,
 VALLAM, RAYONPURAM P.O,
 PERUMBAVOOR, PIN-683543

- 5 SIYAD
 AGED 37 YEARS
 S.O ALIYAR, AMBADAN HOUSE,
 CHELAMATTOM, PIN-683550

BY ADVS.
SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY
SRI.K.ANAND (A-1921)

RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
PIN-682031

R1 BY SRI.AJITH MURALI, PP

OTHER PRESENT:

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

Dated this the 22nd day of December 2020

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This Bail Application filed under Section 439 of Criminal Procedure Code (Cr.P.C.) was heard through Video Conference.

2. The Petitioners are the accused in Crime No.1080 of 2020 of Kuruppampady Police Station, Ernakulam District. The above case is registered against the petitioners alleging offences punishable under Sections 120(B), 365, 368 and 395 of the Indian Penal Code (IPC).

3. The prosecution case, in brief, is that, the 1st accused had some business disputes with the de facto complainant and brother of the de facto complainant owed money to him. It is alleged that in order to force him to come to a settlement, the 1st accused hired the other accused to kidnap the de facto complainant. Accordingly, on 30.10.2020 at about 3.10 PM, while the de facto complainant was coming in his

car bearing Reg.No.KL-40-N-7337, he was kidnapped and taken to a godown and was robbed of Rs.3,50,000/- from the dashboard of the car and had made to sign several blank stamp papers and was also assaulted.

4. Heard the learned counsel for the petitioner and the learned public prosecutor. Heard the counsel represented for the defacto complainant also.

5. The learned counsel for the petitioner submitted that, the petitioners surrendered before the investigating officer as directed by this Court in Annexure A1 order. The petitioners surrendered before the investigating officer on 8.12.2020. The counsel submitted that, the petitioners may be released on bail.

6. The learned Public Prosecutor opposed this bail application. The counsel represented for the defacto complainant has also opposed this bail application.

7. After hearing both sides, I think, this bail application can be allowed on stringent conditions. Admittedly, the other accused were released on bail as per the order dated 14.12.2020 in B.A.No.8416 of 2020. It is reported that, the recovery is already effected.

It is submitted that, the necessity of the police custody of the petitioner is over. Considering the entire facts and circumstances of this case and considering the fact that, the other accused were already released on bail, I think, this bail application can be allowed on stringent conditions.

8. 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.

9. 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.

10. 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 petitioners shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;

2. The petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

3. The petitioners shall not leave

India without permission of the jurisdictional Court;

4. The petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected;

5. The petitioners 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 Covid 19 pandemic;

6. If any of the above conditions are violated by the petitioners, 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