

Libin vs State of Kerala

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Court : Kerala

Decided On : Apr-10-2025

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./4693/2025

Appellant : LIBIN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947
CRIME NO.164/2025 OF Punalur Police Station, Kollam
PETITIONER/ACCUSED NO.2: LIBIN AGED 27 YEARS S/O
THOMASKUTTY, PALLIPADINJATTATHIL HOUSE, CHAKUVARIKKAL,
NARIKKAL P.O., PUNALUR, KOLLAM, PIN - 691322 BY ADV
M.R.SASITH RESPONDENT/STATE: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031 OTHER PRESENT: SRI HRITHWIK C S, SR.PP
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
10.04.2025, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- B.A.No.4693 of 2025

----- Dated this the 10th day of April, 2025

ORDER

This Bail Application is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita.

2. Petitioner is the 2nd accused in Crime

No.164/2025 of Punalur Police Station. The above case is registered against the petitioner and others alleging offences punishable under Sections 126(2), 324(4), 296(b), 109(1), 118(1), 115(2) and 351(3) r/w 3(5) of the Bharatiya Nyaya Sanhita (for short, BNS).

3. The prosecution case is that the defacto

complainant and his brother-in-law questioned the act of the 1 st accused who had used abusive language against the mother of the brother-in-law of the defacto complainant. They had a dispute between them and thereafter due to that enmity, the accused Nos.1 to 3, with an intention to cause bodily injury to

the defacto complainant, on 27.01.2025 at 10.30 p.m., restrained the defacto complainant when he was travelling in a scooter and his brother-in-law and some others were travelling in a car when they reached near Narikkal Junction. Accused Nos. 1 and 3 pelted stones to the car and destroyed the back and side glasses. When the defacto complainant and his brother in law questioned the same act, the 1 st accused used filthy words against them and he swung a sword against the neck of the defacto complainant and again he attacked him on the back side of the head causing injury to him. When his brother in law Rakesh, other friends Umesh, Midhun and Rahul were trying to prevent the attack of the 1 st accused, he caused an injury to his friends also. When the defacto complainant fell down, accused

Nos.1 and 3 were kicked on his body. The act of destroying the glass of the car caused a loss of Rs.75,000/- to the defacto complainant. Hence it is alleged that the accused committed the offence.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The counsel for the petitioner submitted that

even if the entire allegations are accepted, no specific overt act is attributed to the petitioner who is the 2 nd accused, and the petitioner is ready to abide any conditions if this Court grant him bail. The Public Prosecutor opposed the bail application. But the Public Prosecutor submitted that a crime is registered under Section 427 IPC against the petitioner in the year 2012.

6. This Court considered the contentions of the

petitioner and the Public Prosecutor. This Court also perused the First Information Statement. No serious overt act is attributed to the petitioner who the 2 nd accused, compared to the overt acts of accused Nos.1 and 3. No serious criminal

antecedent is also alleged against the petitioner. Considering the facts and circumstances of the case, I think the petitioner can be released on bail after imposing stringent conditions. But I make it clear that this order is not applicable to the other accused and if any application is filed by other accused, that will be considered in accordance to law.

7. 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.

8. Recently the Apex Court in Siddharth v State of Uttar Pradesh and Another [2021(5)KHC 353] considered the point in detail. The relevant paragraph of the above judgment is extracted hereunder:

12. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. (Joginder

Kumar v. State of UP and Others (1994 KHC 189: (1994) 4 SCC 260: 1994 (1) KLT 919: 1994 (2) KLJ 97: AIR 1994 SC 1349: 1994 Cri LJ 1981)) If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused.

9. In Manish Sisodia v. Central Bureau of

Investigation [2023 KHC 6961], the Apex Court observed that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case.

10. Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, I think bail can be granted after imposing stringent conditions. Therefore, this Bail Application is allowed with the following directions:

1. The petitioner shall appear before the Investigating Officer within two weeks 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 arresting officer concerned.

3. The petitioner shall appear before the

Investigating Officer for interrogation as and when required. The petitioner 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.

4. Petitioner shall not leave India without permission of the jurisdictional Court.

5. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

6. Needless to mention, it would be well

within the powers of the investigating officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* and another [2020 (1) KHC 663].

7. The observations and findings in this order

is only for the purpose of deciding this bail application. The principle laid down by this Court in *Anzar Azeez v. State of Kerala* [2025 SCC OnLine KER 1260] is applicable in this case also.

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. The prosecution and the victim are at liberty to approach the jurisdictional Court to cancel the bail, if any of the above conditions are violated. sd/- P.V.KUNHIKRISHNAN JV JUDGE