

Sunil Kumar N vs State of Kerala

Sunil Kumar N vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1280939

Court : Kerala

Decided On : Apr-11-2025

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./4922/2025

Appellant : Sunil Kumar N

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947
BAIL APPL. NO. 4922 OF 2025 CRIME NO.292/2025 OF Maranallor
Police Station, Thiruvananthapuram PETITIONER(S)/ACCUSED: SUNIL
KUMAR N AGED 41 YEARS S/O NANUKUTTAN G., ARUVIKKARA
VEEDU, ARUVIKKARA, KOOVALASSEY, MARANALLOOR
THIRUVANANTHAPURAM DISTRICT, PIN - 695512 BY ADV
LATHEESH SEBASTIAN RESPONDENT(S)/STATE & COMPLAINANT:
STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 BY ADV.:
SRI HRITHWIKC S, SR.PP THIS BAIL APPLICATION HAVING COME

UP FOR ADMISSION ON 11.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Dated
this the 11th day of April, 2025

ORDER

This Bail Application is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

2. The petitioner is the accused in Crime No.292/2025 of Maranalloor Police Station,

Thiruvananthapuram. The above case is registered against the petitioner alleging offences punishable under Section 329(3) of the Bharatiya Nyaya Sanhita (BNS), 2023 and also under Section 3(1) of the Prevention of Damage to Public Property (PDPP) Act, 1984.

3. The prosecution case is that the petitioner is the President of the Parents Teachers Association of Govt. L.P. School, Punnavor, Maranalloor, Thiruvananthapuram. It is alleged that the petitioner

trespassed into the school compound between 08.03.2025 and 09.03.2025 and destructed the playing area of the students and cut and removed two trees standing there and caused damage of Rs.1,75,000/- to the School and thereby committed the offences alleged.

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

5. The counsel for the petitioner submitted that the allegation against the petitioner is not

correct. There was a proposal for renovation of playing area and construction of additional class room. A contract was given to one Sreekanth S.J., for construction of additional class room. Annexure-2 is the construction agreement. Thereafter, the headmistress of the school requested the Secretary of the Maranalloor Grama Panchayath to shift the park as evident by Annexure-3 request. Another request was submitted for cutting and removal of trees as evident by Annexure-4. It is on the basis of Annexures-2 to 4, the trees were cut and the park was allegedly demolished. The defacto complainant raises the allegation without any basis is the submission. The counsel also submitted that the petitioner is ready to abide any condition imposed by this Court, if this Court grant him bail.

6. The Public Prosecutor opposed the bail application. He submitted that the petitioner committed mischief and he is liable to be prosecuted under Section 3(1) of the PDPP Act.

7. This Court considered the contention of the petitioner and the Public Prosecutor. Considering the

facts and circumstances of the case and also

considering Annexures-2 to 4, I think, the petitioner

can be released on bail. But, in Hemachandran M.T. @ Kamalesh & Others v. Sub Inspector of Police & Another [2011 (4) KHC 689], this Court observed that, while granting bail in cases which are registered under the PDPP Act, the damage caused should be directed to be deposited, subject to the conclusion of trial. In this case, the damage assessed is 1,75,000/-. It is an assessment made by the Police and the Headmistress of the school.

No expert assessment is there. Considering the

facts and circumstances of the case, the petitioner

can be directed to deposit an amount of Rs.50,000/-. With that condition bail application can be allowed.

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. 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.

10. 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. Considering the dictum laid down in the above decisions and

considering the facts and circumstances of this case, this Bail Application is allowed with the following conditions:

1. The petitioner shall appear before the Investigating Officer within one month 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. The petitioner shall deposit an amount of Rs.50,000/- before the jurisdictional court and produce the receipt before the Investigating Officer at the time of surrender.

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. 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].

9. If any of the above conditions are violated by the petitioner, the jurisdictional court can cancel the bail in accordance to law, even though this bail is granted by this Court. The prosecution is at liberty to approach the jurisdictional court to cancel the bail, if any of the above conditions are violated. Sd/-
P.V.KUNHIKRISHNAN nvj JUDGE

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com