

**Ramees vs State of Kerala**

**Ramees vs State of Kerala**

**SooperKanoon Citation :** [sooperkanoon.com/1328033](https://sooperkanoon.com/1328033)

**Court :** Kerala

**Decided On :** Jul-23-2024

**Judge :** Honourable Mr.Justice C.S.Dias

**Appeal No. :** Bail Appl./5538/2024

**Appellant :** Ramees

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 23RD DAY OF JULY 2024 / 1ST SRAVANA, 1946 CRIME NO.611/2024 OF Tanur Police Station, Malappuram ----- PETITIONER/4TH ACCUSED :- RAMEES, AGED 33 YEARS S/O. USMAN, KUPPANTE PURAKKAL HOUSE, TANUR P.O., AL BAZAR, MALAPPURAM, PIN - 676 302 BY ADV SHABU SREEDHARAN RESPONDENT/COMPLAINANT :- STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031 BY SRI.C.S.HRITHWIK, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -: 2

:-

## ORDER

Dated this the 23rd day of July, 2024 The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the 4th accused in Crime No.611/2024 of the Tanur Police Station, Malappuram, which is registered against the accused, for allegedly committing the offences punishable under Sections 365, 394, 395 and 120B r/w Section 34 of the Indian Penal Code. The petitioner was arrested and remanded to judicial custody on 05.05.2024.

2. The gist of the prosecution case is that; the

accused had hatched a conspiracy and, on 02.05.2024, at around 16:30 hrs., they robbed 2 kgs. of gold ornaments and 43.5 gms. of gold ingot worth Rs.1,72,00,000/- from the possession of the employee of the de facto complainant. Thus, the accused has committed the above offences. -: 3 :-

3. Heard; Sri.Shabu Sreedharan, the learned counsel appearing for the petitioner and Sri.C.S.Hrithwik, the learned Senior Public Prosecutor.

4. The learned counsel appearing for the petitioner

submitted that the petitioner is totally innocent of the accusations levelled against him. There is no material to substantiate that the petitioner has committed the above offences. The Investigating Officer has deliberately implicated the petitioner as an accused in the crime. In any given case, the petitioner has been in judicial custody for the last 78 days, the investigation in the case is practically complete and recovery has been effected. Therefore, the petitioners further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the

application. He submitted that the investigation is in progress. He also stated that the petitioner has criminal antecedents since he is involved in a crime of the year -:

4 :-

2018. If the petitioner is released on bail, there is every likelihood of him intimidating the witnesses and tampering with the evidence. Hence, the application may be dismissed.

6. The prosecution allegation is that; the petitioner along with the other accused had hatched a conspiracy and committed robbery of gold ornaments and ingot of the

de facto complainant worth Rs.1,72,00,000/-. The fact remains that the petitioner has been in judicial custody for the last 78 days, the investigation in the case is complete and recovery has been effected.

7. In *Sanjay Chandra v. CBI* [2012 1 SCC 40], the

Honourable Supreme Court has categorically held that the fundamental postulate of criminal jurisprudence is the presumption of innocence, until a person is found guilty. Any imprisonment prior to conviction is to be considered as punitive and it would be improper on the part of the :- 5 :- Court to refuse bail solely on the ground of former conduct.

8. In bail applications, generally, it has been laid down from the earliest times that, the object of bail is to secure the appearance of the accused person for trial. The

object of bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and found guilty.

9. On an overall consideration of the facts, the rival

submissions made across the Bar and the materials placed on record, particularly considering the fact that the petitioner has been in judicial custody for the last 78 days, the investigation in the case is complete and recovery has been effected, I am of the firm view that the petitioner's :- 6 :- further detention is unnecessary. Hence, I am inclined to allow the application. In the result, the application is allowed, by directing the petitioner to be released on bail on him executing a bond

for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following conditions :-

(i) The petitioner shall appear before the

Investigating Officer on every Saturday between 9 a.m. and 11 a.m till the final report is laid. He shall also appear before the Investigating Officer as and when required;

(ii) The petitioner shall not directly or indirectly

make any inducement, threat or procure 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 or tamper with the evidence in any manner, whatsoever; -: 7 :-

(iii) The petitioner shall not commit any offence while he is on bail;

(iv) The petitioner shall surrender his passport, if

any, before the court below at the time of execution of the bond. If he has no passport, he shall file an affidavit to the effect before the court below on the date of execution of the bond;

(v) In case of violation of any of the conditions

mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

(vi) Applications for deletion/modification of the bail conditions shall be filed and entertained before the court below.

(vii) 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, -: 8 :-

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]. Sd/- C.S. DIAS, JUDGE Jvt/23.7.2024 -: 9 :- APPENDIX OF BAIL APPL.5538/2024 PETITIONER ANNEXURES :- Annexure 1 THE TRUE COPY OF THE FIR IN CRIME NO. 611/2024 OF TANUR PS DATED 3.5.2024 Annexure 2 THE TRUE COPY OF THE COMMON ORDER OF THE SESSIONS COURT, MANJERI IN CRL MC NO. 811/2024 DATED 22.6.2024

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**