

D. Vinod Kumar, vs State of Kerala

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Court : Kerala

Decided On : Mar-23-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Bail Appl./1471/2023

Appellant : D. Vinod Kumar,

Respondent : State of Kerala

Judgement :

BAIL APPL. NO. 1459 OF 2023 CRIME NO.27/2023 OF Bedakom Police Station, Kasargod CMP 740/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE PETITIONERS/ACCUSED 1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031 PUBLIC PROSECUTOR SRI SANGEETH RAJ 27.02.2023 ALONG WITH B.A.NOS.1460, 1461, 1462, 1464, 1465, 1466, 1467, 1468, 1471, 1476, 1477, 1479, 1486, 1487, 1488, 1495 & 1506 OF 2023 THE COURT ON 23.03.2023 DELIVERED THE FOLLOWING: & 1506 of 2023 2 BAIL APPL. NO. 1460 OF 2023 CRIME NO.24/2023 OF Bedakom Police

Station, Kasargod CMP 737/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE PETITIONERS/ACCUSED 1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. GANGADHARAN NAIR.P, AGED 67 YEARS POOCHAKKAD VALAPPU, NEDUVAOTTUPARA, PERIYA, HOSDURG TALUKKASARAGOD DISTRICT, PIN - 671316. HIGH COURT OF KERALA, PIN - 682031 SENIOR PUBLIC PROSECUTOR SRI P.G.MANU & 1506 of 2023 3 BAIL APPL. NO. 1461 OF 2023 CRIME NO.21/2023 OF Bedakom Police Station, Kasargod CMP 539/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE PETITIONER/ACCUSED 1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT., PIN - 671541. 2 GANGADHARAN NAIR.P.,AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT., PIN - HIGH COURT OF KERALA, PIN - 682031 PUBLIC PROSECUTOR SRI SANGEETH RAJ & 1506 of 2023 4 BAIL APPL. NO. 1462 OF 2023 CRIME NO.32/2023 OF Bedakom Police Station, Kasargod CMP 745/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE PETITIONERS/ACCUSED 1 & 2: 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE),R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031 SENIOR PUBLIC PROSECUTOR SRI P.G.MANU & 1506 of 2023 5 BAIL APPL. NO. 1464 OF 2023 CRIME NO.29/2023 OF Bedakom Police Station, Kasargod CMP 742/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE PETITIONER/ACCUSED 1 & 2 (UNDER CUSTODY: 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P,

AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031 PUBLIC PROSECUTOR SRI S.SANGEETH RAJ & 1506 of 2023 6 BAIL APPL. NO. 1465 OF 2023 CRIME NO.25/2023 OF Bedakom Police Station, Kasargod CMP 738/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE PETITIONERS/ACCUSED 1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541.

2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031. PUBLIC PROSECUTOR SRI S.SANGEETH RAJ & 1506 of 2023 7 BAIL APPL. NO. 1466 OF 2023 CRIME NO.26/2023 OF Bedakom Police Station, Kasargod CMP 739/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE PETITIONERS/ACCUSED 1 & 2(UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE),R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031 PUBLIC PROSECUTOR SRI SANGEETH RAJ & 1506 of 2023 8 BAIL APPL. NO. 1467 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 748/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.35/2023 OF BEDAKAM POLICE STATION, KASARAGOD PETITIONERS/ACCUSED NOS.1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031 PUBLIC PROSECUTOR SRI SANGEETH RAJ & 1506 of 2023 9 BAIL APPL. NO. 1468 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 744/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.31 OF 2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONERS/ACCUSED 1 & 2(UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI

(LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. SENIOR PUBLIC PROSECUTOR SRI P G MANU & 1506 of 2023 10 BAIL APPL. NO. 1471 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 538/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.22/2023 OF BEDAKAM POLICE STATION, KASARAGOD DISTRICT PETITIONERS/ACCUSED NOS.1 & 2(UNDER CUSTODY): 1 D. VINOD KUMAR,AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P.,AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. PUBLIC PROSECUTOR SRI SANGEETH RAJ & 1506 of 2023 11 BAIL APPL. NO. 1476 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 751/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.48/2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONERS/ACCUSED 1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P,AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. SRI P G MANU, SENIOR PUBLIC PROSECUTOR & 1506 of 2023 12 BAIL APPL. NO. 1477 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 749/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.36/2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONER/ACCUSED 1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS /O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. PUBLIC PROSECUTOR SRI SANGEETH RAJ & 1506 of 2023 13 BAIL APPL. NO. 1479 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 750/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.37/2023 OF

BEDAKOM POLICE STATION, KASARAGOD PETITIONERS/ACCUSED NOS.1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. PUBLIC PROSECUTOR SRI SANGEETH RAJ & 1506 of 2023 14 BAIL APPL. NO. 1486 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 743/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.30/2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONER/ACCUSED NOS.1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. SHRI P G MANU, SENIOR PUBLIC PROSECUTOR & 1506 of 2023 15 BAIL APPL. NO. 1487 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 746/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.33/2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONER/ACCUSED 1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. PUBLIC PROSECUTOR SRI S.SANGEETH RAJ SMT.T V NEEMA, SENIOR PUBLIC PROSECUTOR 27.02.2023 ALONG WITH B.A.NO.1459 OF 2023 & CONNECTED CASES, THE COURT ON 23.03.2023 DELIVERED THE FOLLOWING: & 1506 of 2023 16 BAIL APPL. NO. 1488 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 747/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.34/2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONER/ACCUSED 1 & 2(UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS, S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK,

KASARAGOD DISTRICT, PIN - HIGH COURT OF KERALA, PIN - 682031. SENIOR PUBLIC PROSECUTOR SRI P.G.MANU & 1506 of 2023 17 BAIL APPL. NO. 1495 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 741/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.28/2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONER/ACCUSED NOS.1 & 2 (UNDER CUSTODY): 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI (LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT., PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD, PIN - 671316. HIGH COURT OF KERALA, PIN - 682031. PUBLIC PROSECUTOR SRO.S.SANGEETH RAJ SENIOR PUBLIC PROSECUTOR SMT.T.V.NEEMA & 1506 of 2023 18 BAIL APPL. NO. 1506 OF 2023 AGAINST THE ORDER/JUDGMENTCMP 736/2023 OF ADDITIONAL DISTRICT COURT (ADHOC-III), KASARAGODE CRIME NO.23/2023 OF BEDAKOM POLICE STATION, KASARAGOD PETITIONER/ACCUSED 1 & 2: 1 D. VINOD KUMAR, AGED 51 YEARS S/O.CHOYI(LATE), R/AT CHINNULAL HOUSE, BEDAKAM VILLAGE, KUNDAMKUZHI POST, KASARAGOD DISTRICT, PIN - 671541. 2 GANGADHARAN NAIR.P, AGED 67 YEARS HOSDURG TALUK, KASARAGOD DISTRICT-, PIN - HIGH COURT OF KERALA, PIN - 682031. SENIOR PUBLIC PROSECUTOR SRI P G MANU & 1506 of 2023 19

A.BADHARUDEEN, J.

===== B.A.Nos.1459 of 2023, 1460/2023, 1461, 1462, 1464, 1465, 1466, 1467, 1468, 1471, 1476, 1477, 1479, 1486, 1487, 1488, 1495 and 1506 of 2023 ===== Dated this the 23rd day of March, 2023

COMMON ORDER

In these applications filed under Section 439 of the Code of Criminal Procedure, accused 1 and 2 in the following crimes seek the relief of regular bail. Sl.No. Bail Crime No. Name of Police Station Application Number

1 1459/2023 27/2023 Bedakam Police Station 2 1460/2023 24/2023 Bedakam Police Station 3 1461/2023 21/2023 Bedakam Police Station 4 1462/2023 32/2023 Bedakam Police Station 5 1464/2023 29/2023 Bedakam Police Station 6 1465/2023 25/2023 Bedakam Police Station 7 1466/2023 26/2023 Bedakam Police Station 8 1467/2023 35/2023 Bedakam Police Station 9 1468/2023 31/2023 Bedakam Police Station 10 1471/2023 22/2023 Bedakam Police Station 11 1476/2023 48/2023 Bedakam Police Station 12 1477/2023 36/2023 Bedakam Police Station 13 1479/2023 37/2023 Bedakam Police Station & 1506 of 2023 20

14 1486/2023 30/2023 Bedakam Police Station 15 1487/2023 33/2023 Bedakam Police Station 16 1488/2023 34/2023 Bedakam Police Station 17 1495/2023 28/2023 Bedakam Police Station 18 1506/2023 23/2023 Bedakam Police Station

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor. Perused case diary along with the detailed reports submitted by the learned Public Prosecutor.

3. The prosecution case as that can be extracted from

the case diary placed by the learned Public Prosecutor is that, as per the information at the instance of Market Intelligence Team of Reserve Bank of India regarding unauthorised deposit collection by GBG Nidhi at Kundamkuzhi within the jurisdiction of Bedakam Police Station in Kasaragod district, a preliminary enquiry was conducted and the same revealed that GBG Nidhi Ltd. (CIN U65999KL 2020 PLN065721), a company registered under the Companies Act on 12th November, 2020, Headquarters at Kandamkuzhi in Kasaragod district, where the 1st petitioner, Vinod Kumar D is the Managing Director and & 1506 of 2023 21 Chairman of the Company and Subhash Chiravangat, Chengala Mohammad Razak, Periya Gangadharan Nair, Prejith, Joshi George and Rajish Maniyat as Directors had given an offer to the effect that Your Money Will be Double in Forty Weeks Guaranteed. The Company also promised to give a person who deposits Rs.1 lakh, Rs.1,000/- at their wallet daily and also would give Rs.1,80,000/- within 10 months. Accordingly, various persons, attracted by the offer, accepted the offer

and deposited huge amount of money. The Investigation team found that GBG Nidhi Limited Company maintained 8 accounts and there were transactions to the tune of Rs.49,75,82,408/- in the said accounts. But the balance outstanding at the time of freezing of the accounts is Rs.11,16,52,807/- and the remaining amounts were misappropriated by the accused after cheating and defrauding the depositors. Since the company was not approved by Securities and Exchange Board of India ('SEBI' for short) or Reserve Bank of India ('RBI' for short), the & 1506 of 2023 22 collection of huge amount of money by the accused under the company name GBG Nidhi Limited is against the sanction of law. Accordingly, the 18 cases were registered alleging commission of offences punishable under Section 420 of IPC as well as under Section 3 r/w 21(1) & (2) and 5 r/w 23 of the Buds Act, 2029. These crimes were registered when the respective defacto complainants lodged complaint alleging misappropriation, after obtaining huge amount from the respective defacto complainants.

4. The learned counsel for the petitioners would submit

that none of the depositors lodged any complaint and the present crime was registered based on a complaint filed by one Muraleedharan, S/o.Chindan Poduval, District Secretary, Prathikarana VEDI. According to the learned counsel for the petitioners, the said Muraleedharan is not at all aggrieved by the activities of the GBG Nidhi Limited and therefore, the complaint itself is on a wrong footing. Further the petitioners & 1506 of 2023 23 were given permission to collect deposit from public. Therefore, no offence would attract in this case. Accordingly, the learned counsel for the petitioners pressed for grant of regular bail to the petitioners. It is submitted further that since the petitioners have been in custody for a pretty long period, they may be released on bail.

5. Whereas the learned Public Prosecutor strongly

opposed the anticipatory bail at the instance of the petitioners on the submission that even though statement of one Muraleedharan was recorded while registering these crimes, 18 crimes against the petitioners have been registered based on an information of Market Intelligence Team of Reserve Bank of India regarding unauthorised deposit by GBM Nidhi Limited and acting on the statements given by

the respective defacto complainants. Therefore, the allegation of the petitioners' counsel that this crime was registered merely recording the statement of Muraleedharan alone is absolutely false. The & 1506 of 2023 24 learned Public Prosecutor vehemently submitted that the petitioners are persons having criminal antecedents and at present 18 crimes were registered and there is likelihood of more crimes of similar nature. The learned Public Prosecutor submitted that the 1st accused is a person having criminal antecedents of similar nature and therefore if he would be released on bail, he would repeat similar offence and also the same would affect the investigation.

6. In the report of the Investigating Officer it has been

reported that the 1st accused herein-D.Vinod Kumar, the Managing Director and Chairman of the Nidhi and Managing Director of the Bigplus Fin Trading Private Limited, who is the key accused in this case got involved in various financial crimes and has been facing trial in the following cases : 1) Cr.No.894/2012 (CC 310/2021 of Hon'ble CJM, Kasaragod), 2) Cr.No.810/2011 (CC 76/2020 of Hon'ble CJM, Kasaragod) 3) Cr.No.148/2012 (CC 313/2021 of the Hon'ble CJM, Thalassery) & 1506 of 2023 25 in connection with the Grameena Super Market scam. He also has been facing trial in CC 1289/2021 of the Hon'ble PRL. Civil Judge and JMFC, Uduppi, Karnataka under Section 138 of NI Act.

7. On perusal of the detailed reports filed in each crime,

and the materials available with the respective case diaries, it could be gathered that these crimes were registered on the basis of an information at the instance of Market Intelligence Team of Reserve Bank of India regarding the unauthorised deposit of collection at GBG Nidhi at Kundamkuzhi and statement of Muraleedharan, District Secretary of Prathikarana Vedi was also recorded. But the specific case of the prosecution is that GBG Nidhi Ltd., represented by the Managing Director and the Directors, who are accused in these crimes, were not given any approval or permission by the SEBI or RBI to collect or deposit by giving offer to the effect that Your Money Will be Double in Forty Weeks Guaranteed. Thus, prima facie, it is & 1506 of 2023 26 established that the collection of money by the petitioners under the GBG Nidhi company is against the sanction of law and

the intent appears to be to cheat the depositors and to misappropriate their money, prima facie. It is relevant to note that Rs.49,75,82,408/- got deposited and balance as on the date of freezing of the accounts of GBG Nidhi is Rs.11,16,52,807/-. Thus a major portion of the money in the accounts of GBG Nidhi found to be misappropriated, prima facie. On perusal of the entire materials, on no stretch of imagination this Court would be justified in granting bail to the petitioners, who involved in 18 crimes at present and the 1 st petitioner is a person having criminal antecedents of similar nature. Therefore, all these petitions must fail and are accordingly dismissed. Sd/- (A. BADHARUDEEN, JUDGE) rtr/

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