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Aneesh.Aj. vs State of Kerala

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Court : Kerala

Decided On : May-09-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./3298/2023

Appellant : Aneesh.Aj.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 9TH DAY OF MAY 2023 / 19TH VAISAKHA, 1945 BAIL APPL. NO. 3297 OF 2023 CRIME NO.1356/2022 OF NJARAKKAL POLICE STATION, ERNAKULAM PETITIONER/2ND ACCUSED: ANEESH A.J. AGED 37 YEARS, S/O JAMES CIVIL EXCISE OFFICER (NOW UNDER SUSPENSION), ARAKKAPARAMBIL HOUSE, POST THATHAPPALLY, NORTH PARUR, ERNAKULAM DISTRICT,KERALA, PIN - 683520 BY ADVS. T.ASAFALI LALIZA.T.Y. RESPONDENT/STATE & THE COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 THE STATION HOUSE OFFICER NJARAKAL

POLICE STATION, ERNAKULAM DISTRICT, KERALA., PIN - 682505 BY ADV PUBLIC PROSECUTOR SRI. C. N. PRABHAKARAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.05.2023, ALONG WITH Bail Appl..3298/2023, 3325/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 9TH DAY OF MAY 2023 / 19TH VAISAKHA, 1945 BAIL APPL. NO. 3298 OF 2023 CRIME NO.0036/2023 OF KADUTHURUTHI POLICE STATION, KOTTAYAM PETITIONER/ACCUSED: ANEESH.AJ. AGED 37 YEARS CIVIL EXCISE OFFICER, NOW UNDER SUSPENSION, RESIDING AT ARAKKAPARAMBIL HOUSE, POST THATHAPPALLY, NORTH PARUR, ERNAKULAM DISTRICT. KERALA., PIN - 683520 BY ADVS. T.ASAFALI LALIZA.T.Y. RESPONDENT/STATE & THE COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 THE STATION HOUSE OFFICER KADUTHURUTHI POLICE STATION, POST KADUTHURUTHI-686604,KOTTAYAM DISTRICT,KERALA, PIN - 686604 BY ADV PUBLIC PROSECUTOR SMT. T. V. NEEMA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.05.2023, ALONG WITH Bail Appl..3297/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 9TH DAY OF MAY 2023 / 19TH VAISAKHA, 1945 BAIL APPL. NO. 3325 OF 2023 CRIME NO.0230/2023 OF PUNNAPRA POLICE STATION, ALAPPUZHA PETITIONER/ACCUSED: ANEESH A.J. AGED 37 YEARS, S/O JAMES CIVIL EXCISE OFFICER, (NOW

UNDER SUSPENSION),ARAKKAPARAMBIL HOUSE, POST THATHAPPALLY, NORTH PARUR, ERNAKULAM DISTRICT, KERALA, PIN - 683520 BY ADVS. T.ASAFALI LALIZA.T.Y. RESPONDENT/STATE & THE COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 STATION HOUSE OFFICER PUNNA0PRA POLICE STATION, POST PUNNAPPRA, ALAPPUZHA DISTRICT, KERALA., PIN - 688003 BY ADV PUBLIC PROSECUTOR SRI.C. N.PRABHAKARAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.05.2023, ALONG WITH Bail Appl..3297/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 9TH DAY OF MAY 2023 / 19TH VAISAKHA, 1945 BAIL APPL. NO. 3327 OF 2023 CRIME NO.0765/2022 OF AROOR POLICE STATION, ALAPPUZHA PETITIONER/ACCUSED: ANEESH A.J. AGED 37 YEARS CIVIL EXCISE OFFICER (NOW UNDER SUSPENSION),ARAKKAPARAMBIL HOUSE, POST THATHAPPALLY, NORTH PARUR, ERNAKULAM DISTRICT,KERALA, PIN - 683520 BY ADVS. T.ASAFALI LALIZA.T.Y. RESPONDENT/STATE & THE COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 THE STATION HOUSE OFFICER AROOR POLICE STATION, POST AROOR,ALAPPUZHA DIST, KERALA, PIN - 688534 BY ADV PUBLIC PROSECUTORSRI.C.N. PRABHAKARAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.05.2023, ALONG WITH Bail Appl..3297/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 9TH DAY OF MAY 2023 / 19TH VAISAKHA, 1945 BAIL APPL. NO. 3330 OF 2023 CRIME NO.1347/2022 OF NJARAKKAL POLICE STATION, ERNAKULAM PETITIONER/ACCUSED: ANEESH A.J. AGED 37 YEARS, S/O JAMES, CIVIL EXCISE INSPECTOR,(NOW UNDER SUSPENSION), RESIDING AT ARAKKAPARAMBIL HOUSE, POST THATHAPPALLY, NORTH PARUR, ERNAKULAM DISTRICT, PIN - 683520 BY ADVS. T.ASAFALI LALIZA.T.Y. RESPONDENT/STATE & THE COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 THE STATION OFFICER NJARAKAL POLICE STATION, POST NJARAKAL,ERNAKULAM DISTRICT, KERALA., PIN - 682505 BY ADV PUBLIC PROSECUTOR SMT. T. V. NEEMA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.05.2023, ALONG WITH Bail Appl..3297/2023 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: P.V.KUNHIKRISHNAN, J ---------- B.A.Nos.3297,3325,3298,3327 and 3330 of 2023 ---------- Dated this the 9th day of May, 2023

COMMON ORDER

These Bail Application are filed under Section 439 of Criminal Procedure Code .

2. The petitioner in these bail applications is one

and the same and therefore I am disposing of these bail applications by a common order. The petitioner is accused in Crime No.1356/2022 of Njarakkal Police Station, Crime No.230/2023 of Punnapra Police Station, Crime No.36/2023 of Kaduthuruthi Police Station, Crime No. 765/2022 of Aroor Police Station and Crime No.1347/2022 of Njarakkal Police Station. All these cases are registered against the petitioner alleging offences punishable under Sections 406 and 420 IPC.

3. The prosecution case is that, the petitioner

who is arrayed as second accused in the above cases promised the respective de facto complainants in these cases job in Russia and collected huge amount. It is alleged that the petitioner committed cheating. Similar type of allegations are there in all these bail applications. The petitioner is in custody in these cases.

4. Heard the counsel for the petitioner and the

learned Public Prosecutor. The counsel for the petitioner submitted that even if the entire allegations are accepted, no offence under Section 420 IPC is made out. It is also submitted the petitioner is ready to abide any conditions if this Court grants him bail. The Public Prosecutor opposed the bail application.

5. This Court considered the contention of the

petitioner and the learned Public Prosecutor. The main allegation is that the de facto complainants paid huge amount for getting job in a foreign country and the petitioner has not arranged the job. Why the victims in these cases paid amount to the petitioner, when admittedly the petitioner is not a authorised recruiting agency, is not clear.

6. In Archana Rana v. State of Uttar Pradesh

and others [(2021) 3 SCC 750], the Apex Court observed that giving money to get job will not amounts to the offence under Section 420 IPC. Whether the principle laid down in the above case is applicable in the facts and circumstances of this case, is a matter to be investigated. The indefinite detention of the petitioner may not be necessary in the facts and circumstances of the case. The petitioner can be released on bail in stringent conditions.

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. 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. Petitioner shall be released on bail on 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 jurisdictional Court.

2. 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.

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

4. Petitioner 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. 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. Sd/- P.V.KUNHIKRISHNAN, JUDGE rmm

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