

Sreekumar.S., vs State of Kerala,

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Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Bail Appl./6054/2023

Appellant : Sreekumar.S.,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
CRIME NO.93/2023 OF CHADAYAMANGALAM POLICE STATION,
KOLLAM DISTRICT PETITIONER: SREEKUMAR.S AGED 56 YEARS
S/O SREEDHARAN NAIR, AMBILI BHAVAN, KURIYODU,
CHADAYAMANGALAM P.O, KOTTARAKARA, KOLLAM DISTRICT.,
PIN - 691534 BY ADV ALEXANDER GEORGE
RESPONDENTS/COMPLAINANT/STATE: 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031 2 THE STATION HOUSE OFFICER
CHADAYAMANGALAM POLICE STATION, KOLLAM DISTRICT., PIN -

691534 BY ADV SMT.SREEJA-SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for anticipatory bail.

2. The petitioner is the 2nd accused in crime No.93/2023

of Chadayamangalam Police Station. The offences alleged against the petitioner are under Sections 406, 420 and 34 of the Indian Penal Code and under Sections 3, 4 & 5 of the Banning of Unregulated Deposit Schemes Act, 2019.

3. The prosecution case is that the petitioner, while

working as the Manager of M/s. Kechery Enterprises, which was a proprietary concern of the 1st accused, persuaded the defacto complainant to make a Fixed Deposit amount of Rs.3,50,000/- by promising to pay interest at high rates. Later, they did not refund the said amount and the interest was not also paid. The crime was registered in such circumstances, and as the petitioner apprehends arrest in connection with the investigation of the said case, this application for anticipatory bail was submitted.

4. Heard Sri. Alexander George, the learned counsel appearing for the petitioner and Smt. Sreeja V., the learned Senior Public Prosecutor for the State.

5. The learned counsel for the petitioner submits that, the

petitioner is innocent of all the allegations. According to him, the petitioner is the Manager and was only a paid employee who was not having any decisive role in the matter of management of the

deposit made to the aforesaid establishment. The decisions regarding the same were being taken by the 1 st accused. It is pointed out that the petitioner resigned from the establishment on 30.04.2022. It is the further case of the petitioner that he himself is the victim of the fraud committed by the 1 st petitioner as he

claimed to have deposited an amount of Rs.8,36,500/-. The learned counsel further points out that the petitioner is ready and willing to cooperate with the investigation and shall abide by any conditions that may be imposed by this Court.

6. The learned Public Prosecutor, on the other hand, would oppose the aforesaid application by pointing out that the

matter is under investigation. It is also pointed out that, altogether, 25 cases have been registered against the petitioner and the other accused, with similar allegations, and the investigation is now in progress. Therefore, the dismissal of the bail application was sought.

7. I have gone through the records and heard the

contentions raised from both sides. The specific contention put forward by the learned counsel for the petitioner is with respect to the limited role, the petitioner was having in the management of the funds procured by the establishment. He relies on Annexure-2 communication, by which he resigned from the Company on 30.04.2022. After going through the materials placed before me, I am of the view that the contention put forward by the learned counsel for the petitioner cannot be simply brushed aside. The petitioner is admittedly a paid employee of the said establishment. The specific contention of the petitioner is that the crucial decisions with regard to the management of the funds of the establishment were being taken by the 1 st accused, who is already

under judicial detention. Besides the same, as per the order

dated 16.06.2023, in B.A. No.2342/2023, the petitioner was granted anticipatory bail in another crime with similar allegations. When all the aforesaid aspects are taken into consideration, I am of the view that the interest of justice would be served, if the cooperation of the petitioner with the investigation is ensured. In the facts and circumstances of the case, the custodial interrogation of the petitioner appears to be not necessary. In such circumstances, this bail application is disposed of with the following directions:

(1) The petitioner shall surrender before the Investigating Officer, within a period of two weeks from today, for subjecting himself to interrogation.

(2) After interrogation, the petitioner shall be released on

bail on the very same day of surrender upon the petitioner executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for the like sum, to the satisfaction of the Investigating Officer.

(3) The petitioner shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for the purpose of recovery, if any, as and when demanded.

(4) The petitioner shall appear before the Investigating Officer between 10.00 a.m and 11.00 a.m. every Saturday until the filing of the final report.

(5) The petitioner shall also appear before the Investigating Officer as and when required.

(6) The petitioner shall not commit any offence of similar nature while on bail.

(7) The petitioner shall not make any attempt to contact

any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(8) The petitioner shall not leave India without the permission of the Jurisdictional Court. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with the law.

Sd/- ZIYAD RAHMAN A.A. JUDGE scs APPENDIX OF BAIL APPL. 6054/2023
PETITIONER ANNEXURES Annexure 1 THE TRUE COPY OF THE FIR IN
CRIME NO. 19.01.2023 Annexure 2 THE TRUE COPY OF THE RESIGNATION
LETTER DATED 30.4.2022 Annexure 3 THE TRUE COPY OF THE
CERTIFICATE JOINTLY PREPARED BY THE PETITIONER AND THE NEW

BRANCH MANAGER AND MANAGING DIRECTOR ON 30.4.2022 Annexure 4
THE TRUE COPY OF THE ORDER PASSED IN BA NO. 2093/2023 ON
26.06.2023

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