

**Nizam vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1547570](https://sooperkanoon.com/1547570)

**Court :** Kerala

**Decided On :** Oct-21-2022

**Judge :** Honourable Mr. Justice Bechu Kurian Thomas

**Appeal No. :** Bail Appl./7843/2022

**Appellant :** NIZAM

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 21ST DAY OF OCTOBER 2022 / 29TH ASWINA, 1944 CRIME NO.477 OF 2022 OF ELAMAKKARA POLICE STATION, ERNAKULAM PETITIONER/ 3RD ACCUSED : NIZAM, AGED 28 YEARS, PALLICKAL HOUSE, AROOKUTTY P.O, CHERTHALA, ALAPPUZHA, PIN - 688 534 BY ADV ARJUN S. RESPONDENT/ STATE : STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031 BY SMT.M.K.PUSHPALATHA, PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

----- B.A.No.7843 of 2022 -----

Dated this the 21st day of October, 2022

## **ORDER**

This is an application seeking regular bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. Petitioner is the 3rd accused in Crime No.477/2022 of Elamakkara Police Station, Ernakulam alleging offences punishable under Sections 452, 386 r/w Section 34 of the Indian Penal Code, 1860.

3. According to the prosecution, on 25.08.2022, the accused

trespassed into the beauty parlour and spa run by the defacto complainant and forceably took two mobile phones apart from an amount of Rs.26,000/- and thereby committed the offences alleged.

4. Sri.Arjun S., the learned counsel for the petitioner contended that the entire prosecution allegations are false and the incident as alleged had not occurred. It was further submitted that the petitioner was arrested on 01.09.2022 and has been in custody since then.

5. Smt.M.K.Pushpalatha, the learned Public Prosecutor opposed the grant of bail and contended that the allegations are serious in nature and that the investigation is still continuing.

6. A perusal of the case diary reveals that prima facie there are

materials on record to connect the petitioner with the crime. However, since petitioner was remanded to judicial custody on 01.09.2022, I am of the view that the continued detention of the petitioner is not required in the circumstances of the case. Therefore, the petitioner is entitled to be released on bail.

7. In the result, this application is allowed on the following conditions:-

(a) Petitioner shall 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

(b) Petitioner shall appear before the Investigating Officer as and when required.

(c) Petitioner shall not intimidate or attempt to influence the witnesses; nor shall he tamper with the evidence or contact the defacto complainant or her family members.

(d) Petitioner shall not commit any similar offences while he is on bail.

(e) Petitioner shall not leave India without the permission of In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court. BECHU KURIAN THOMAS, JUDGE RKM

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