**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**

**Presto vs State of Kerala**

**Presto vs State of Kerala**

**SooperKanoon Citation** : sooperkanoon.com/1790916

**Court** : Kerala

**Decided On :** Aug-18-2020

**Judge** : Honourable Mr. Justice P.V.Kunhikrishnan

**Appeal No.** : Bail Appl./4907/2020

**Appellant** : Presto

**Respondent** : State of Kerala

**Judgement** :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 18TH DAY OF AUGUST 2020 / 27TH SRAVANA, 1942 Bail Appl..No.4907 OF 2020 CRIME NO.934/2020 OF Mala Police Station , Thrissur PETITIONERS/ACCUSED:

1 PRESTO AGED 32 YEARS S/O SILVAN, ELANJIKKAL HOUSE, NAITHUKKUDI, MALA P.O, THRISSUR DISTRICT. PIN 680732 2 SILVAN AGED 70 YEARS S/O LONAPPAN, ELANJIKKAL HOUSE, NAITHUKKUDI, MALA P.O, THRISSUR DISTRICT. PIN: 680732 3 REETHA SILVAN AGED 62 YEARS W/O SILVAN, ELANJIKKAL HOUSE, NAITHUKKUDI, MALA P.O, THRISSUR DISTRICT. PIN:

680732 4 ARUN AGED 33 YEARS TISSERANT,KALAPARAMBATH,NAITHUKKUDI, MALA P.O, THRISSUR DISTRICT. PIN: 680732 BY ADVS. SRI.T.S.SARATH SRI.MANU RAMACHANDRAN SRI.R.RAJESH (VARKALA) SRI.M.KIRANLAL SHRI.SAMEER M NAIR

RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA B.A.No.4907 OF 2020 2 2 STATION HOUSE OFFICER AGED 30 YEARS MALA POLICE STATION, THRISSUR RURAL, THRISSUR DISTRICT, PIN: 680732 3 ANJALI BABU AGED 28 YEARS D/O BABU, MECHARI HOUSE, MANNUTHY, TRISSUR, KERALA PIN: 680651 R1 BY PUBLIC PROSECUTOR OTHER PRESENT: SRI.AJITH MURALI, PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18.08.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING B.A.No.4907 OF 2020 3 P.V.KUNHIKRISHNAN, J ---------- B.A.No.4907 of 2020 ---------- Dated this the 18th day of August, 2020

## ORDER

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. Petitioners are accused in Crime No. 934 of 2020 of

Mala Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 323, 498 A, 420 r/w Section 34 of the IPC. 3.The prosecution case is that petitioners mentally and physically harassed the defacto complainant.

4. Heard the counsel for the petitioners and the learned Public Prosecutor.

5. The counsel for the petitioners submitted that there

is a matrimonial dispute pending between the first petitioner and the defacto complainant. The counsel for the petitioners submitted that the petitioners are ready and willing to abide B.A.No.4907 OF 2020 4 any conditions, if this court

grant them bail.

6. The learned Public Prosecutor submitted that, it is an

offence registered in connection with matrimonial dispute between the first petitioner and the defacto complainant. The Public Prosecutor submitted that if this Court is granting bail to the petitioners, stringent conditions may be imposed.

7. After hearing both sides, I think, this bail application can be allowed on stringent conditions. Admittedly, there is a matrimonial dispute pending between the first petitioner and the defacto complainant. Considering the entire facts and circumstances of this case, I think this bail application can be allowed on stringent conditions.

8. Moreover, considering the need to follow social

distancing norms inside prisons so as to avert the spread of the novel Corona Virus Pandemic, the Hon'ble Supreme Court in Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition(C) No.1 of 2020) and a Full Bench of this Court in W.P(C)No.9400 of 2020 issued various salutary directions for minimizing the number of inmates inside prisons.



9. 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.

10. 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. The petitioners shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioners, they shall be released on bail executing a bond for a sum of Rs,.50,000/-(Rupees Fifty Thousand B.A.No.4907 OF 2020 6 only) each with two solvent sureties each for the like sum to the satisfaction of the officer concerned.

3. The petitioners shall appear before the

Investigating Officer for interrogation as and when required. The petitioners 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 them from

disclosing such facts to the Court or to any police officer.

4. Petitioners shall not leave India without permission of the Court.

5. Petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

6. The petitioners shall strictly abide by B.A.No.4907 OF 2020 7 the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing in the wake of Covid 19 pandemic.

7. If any of the above conditions are violated by the petitioners, 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 al/-+

**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**