

Anvar vs State of Kerala

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Court : Kerala

Decided On : Oct-30-2020

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./6901/2020

Appellant : ANVAR

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 30TH DAY OF OCTOBER 2020 / 8TH KARTHIKA, 1942
Bail Appl..No.6901 OF 2020 CRIME NO.689/2020 OF Thrikkakara Police
Station , Ernakulam PETITIONERS/ACCUSED: 1 ANVAR AGED 43
YEARS THOPPIL HOUSE, MUPPATHADAM KARA, KADUNGALLOOR
VILLAGE, PARAVUR TALUK 2 SULEKHA KHADAR AGED 72 YEARS
THOPPIL HOUSE, MUPPATHADAM KARA, KADUNGALLOOR
VILLAGE, PARAVUR TALUK.

BY ADV. SRI.RAJIV NAMBISAN RESPONDENT/S: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA R1 BY PUBLIC PROSECUTOR B.A.No. 6901 OF 2020 2

OTHER PRESENT: SRI.RENJITH.T.R., PP THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 30.10.2020, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING: B.A.No. 6901 OF 2020 3
P.V.KUNHIKRISHNAN, J ----- B.A.No.6901 of 2020
----- Dated this the 30th day of October, 2020

ORDER

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

2. The petitioners are accused in Crime

No.774/2020 of Binanipuram Police Station. Originally, the case was registered at Thrikkakara Police Station as Crime No. 689 of 2020 and the same is now transferred to Binanipuram Police Station. The offences alleged against the petitioners are under Section 498A r/w 34 of the IPC.

3. The prosecution case is that the petitioners mentally and physically harassed the defacto complainant.

4. Heard the counsel for the petitioners and the B.A.No. 6901 OF 2020 4 learned Public Prosecutor.

5. The counsel for the petitioners submitted that the matrimonial relationship between the first petitioner and the defacto complainant is even now in

existence. The counsel submitted that the allegation against the first petitioner submitted that the petitioners are ready to abide any conditions if this Court grant them bail.

6. The Public Prosecutor opposed the bail application but the Public Prosecutor submitted that if this Court is granting bail, stringent conditions may be imposed.

7. After hearing both sides, I think, this bail application can be allowed on stringent conditions. Admittedly, the matrimonial relationship between the first petitioner and

the defacto complainant is even now in existence. The allegation against the petitioners B.A.No. 6901 OF 2020 5

is that there is matrimonial cruelty. I don't want to make any observation on the merit of the case. Considering the entire facts and circumstances and 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,

B.A.No. 6901 OF 2020 6 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 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 B.A.No. 6901 OF 2020 7

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 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 B.A.No. 6901 OF 2020 8 accordance to law, even though the bail is granted by this Court.
Sd/- P.V.KUNHIKRISHNAN, JUDGE al/-

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