

BAIL APPLs.9089, 9095,

9096 & 9113/21

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH AGRAHAYANA, 1943

BAIL APPL. NO. 9089 OF 2021

CRIME NO.340/CB/KLM/PTA/19 OF KOLLAM CRIME BRANCH OFFICE,
(FORMER CRIME NO.2023/2018 OF SHOORANADU POLICE STATION)

KOLLAM DISTRICT

PETITIONER/1ST ACCUSED:

PRATHEESH KUMAR T PILLAI,
AGED 41 YEARS,
S/O. THANKAPPAN, THOTTATHIL VEEDU, KULAKKADA,
KUNDARA, KOLLAM-691 501.

BY ADVS.
RASHEED C.NOORANAD
T.ASAFALI
M.N.ANITHA

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM-682 031.
- 2 THE DETECTIVE OFFICER,
CRIME BRANCH, KOLLAM CRIME BRANCH OFFICE,
KOLLAM-691 001.

SRI A S DHEERAJ, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.11.2021, ALONG WITH Bail Appl..9095/2021 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BAIL APPLs.9089, 9095,

9096 & 9113/21

2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH AGRAHAYANA, 1943

BAIL APPL. NO. 9095 OF 2021

CRIME NO.290/CB/KLM/PTA/19 OF KOLLAM CRIME BRANCH OFFICE,
(FORMER CRIME NO.655/2018 OF KUNDRA POLICE STATION) KOLLAM
DISTRICT

PETITIONER/2ND ACCUSED:

PRATHEESH KUMAR T.PILLAI,
AGED 41 YEARS,
S/O THANKAPPAN, THOTTATHIL VEEDU, KULAKKADA,
KUNDRA, KOLLAM-691501.

BY ADVS.
T.ASAFALI
RASHEED C.NOORANAD
M.N.ANITHA

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBIC PROESCUTOR, HIGH COURT OF
KERALA, ERNAKULAM-682031.
- 2 THE DETECTIVE OFFICER,
CRIME BRANCH, KOLLAM CRIME BRANCH OFFICE,
KOLLAM-691001.

SRI A S DHEERAJ, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.11.2021, ALONG WITH Bail Appl..9089/2021 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BAIL APPLs.9089, 9095,

9096 & 9113/21

3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH AGRAHAYANA, 1943

BAIL APPL. NO. 9096 OF 2021

CRIME NO.342/CB/KLM/PTA/19 OF KOLLAM CRIME BRANCH OFFICE,
(FORMER CRIME NO.1759/2018 OF PUNALUR POLICE STATION) KOLLAM

DISTRICT

PETITIONER/1ST ACCUSED:

PRATHEESH KUMAR T. PILLAI,
AGED 43 YEARS,
S/O.THANKAPPAN, THOTTATHIL VEEDU, KULAKKADA, KUNDRA,
KOLLAM - 691 501.

BY ADVS.
RASHEED C.NOORANAD
T.ASAFALI
M.N.ANITHA

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM - 682 031.
- 2 THE DETECTIVE OFFICER,
CRIME BRANCH, KOLLAM CRIME BRANCH OFFICE,
KOLLAM - 691 001.

SRI A S DHEERAJ, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.11.2021, ALONG WITH Bail Appl..9089/2021 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BAIL APPLs.9089, 9095,

9096 & 9113/21

4

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH AGRAHAYANA, 1943

BAIL APPL. NO. 9113 OF 2021

CRIME NO.341/CB/KLM/PTA/19 OF KOLLAM CRIME BRANCH OFFICE,
(FORMER CRIME NO.1435/2018 OF KOLLAM EAST POLICE STATION)

KOLLAM DISTRICT

PETITIONER/2ND ACCUSED:

PRATHEESH KUMAR T.PILLAI,
AGED 43 YEARS,
S/O. THANKAPPAN, THOTTAHIL VEEDU, KULAKKADA,
KUNDRA, KOLLAM - 691001.

BY ADVS.
RASHEED C.NOORANAD
T.ASAFALI
M.N.ANITHA

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM-682031.
- 2 THE DETECTIVE OFFICER,
CRIME BRANCH, KOLLAM CRIME BRANCH OFFICE,
KOLLAM-691 001.

SRI A S DHEERAJ, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.11.2021, ALONG WITH Bail Appl..9089/2021 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

These applications are filed under Section 438 of the Code of Criminal Procedure.

2. The petitioner has been arrayed as the accused in Crime Nos.290 of 2019, 342 of 2019, 341 of 2019 and 340 of 2019 of Crime Branch, Kollam, which was originally registered at Kundara Police Station (Cr.655/2018), Punalur Police Station (1759/2018), Kollam East Police Station (1435/2018) and Shooranadu Police Station (2023/2018) respectively. The offences alleged *inter alia* are under Section 420 r/w. Section 34 of the IPC.

3. The complaints were lodged by separate individuals alleging that the petitioner herein, with intent to cause wrongful loss to the complainant and to enrich himself, approached them by portraying himself as a principal officer of M/s.Dew Point Engineers Ltd., Tanzania. The petitioner with intent to deceive the complainants, offered to supply raw cashew nuts and induced them to part with money. After deceitfully inducing them to transfer money to his account, the petitioner refused to supply the raw cashew nuts. It is specifically alleged that the circumstances reveal that the petitioner has fraudulent intent at the inception itself. The investigation is still pending.

4. While so, in the year 2019, the petitioner along with his father,

approached this Court and filed separate bail applications seeking anticipatory bail. This Court, after perusing the prosecution records, came to the *prima facie* conclusion that there are materials to suggest that the petitioner had the fraudulent and dishonest intention at the inception itself. The apprehension of the prosecution that grant of pre-arrest bail would imperil the investigation which was at a preliminary stage was also taken note of. After evaluating the entire aspects, this Court came to the conclusion that the petitioner did not make out a case for pre-arrest bail. However, insofar as the father of the petitioner is concerned, the application was allowed and directions were issued. While dismissing the application filed by the petitioner, specific directions were issued to surrender before the investigating officer within a period of ten days and to cooperate with the same. It was further ordered that the petitioner shall be produced before the jurisdictional Magistrate after interrogation and the Court was directed to consider the regular bail application on its merits and pass orders expeditiously.

5. These applications have been filed contending that in tune with the directions issued by this Court, the petitioner had surrendered before the investigating officer on 19.11.2019, 18.11.2019 and 26.11.2019 and that he was subjected to detailed interrogation. However, the investigating officer did not effect his arrest on the ground that his arrest was not required. The

petitioner was asked to appear as and when directed. It is further stated that a new investigating officer has assumed charge of the investigation and directions have been issued to the petitioner to appear before the said authority. It is in the said circumstances that the petitioner is before this Court seeking pre-arrest bail.

6. A detailed statement has been filed by the investigating officer. It is submitted that the preliminary investigation has revealed that the petitioner has defrauded the complainants and obtained unlawful gain to the tune of about Rs.10 Crores. It is further submitted that the petitioner is also the prime accused in Crime No. 136 of 2018 registered under Sections 406, 477, 480 r/w. Section 34 of the IPC registered at Vyalikavil Police Station in the State of Karnataka. It is stated that the assertion by the petitioner in his bail application that he had appeared before the investigating officer on various dates is totally incorrect. He failed to comply with the directions and did not appear before the investigating officer at any point of time. After failing to comply with the directions issued by this Court and after evading the process of law for several years, the petitioner has come up with this petition raising false contentions. It is further stated that the petitioner is the Managing Director of a company based in Tanzania and also the Managing partner of Dew Point Engineers (T) Ltd., Tanzania. It is further stated that interrogation

of the petitioner is essential in the facts of the instant case.

7. I have anxiously considered the submissions. The earlier applications filed by the petitioner were dismissed by this Court taking note of the nature of allegations, the stage of investigation and the role attributed to the petitioner. The investigating officer has filed a statement asserting that the petitioner had not complied with the directions issued by this Court earlier.

8. The Apex Court in **Kalyan Chandra Sarkar v. Pappu Yadav** (AIR 2005 SC 921), has held that though there is room for filing a subsequent bail application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view be interfered with or where the earlier finding has become obsolete. This is the limited area in which, an accused, who has been denied bail earlier, can move a subsequent application.

9. This Court in **Vineeth v. State of Kerala** [2005 (5) KHC 224], has held that though the accused has a right to make a second application for pre-arrest bail, he is bound to clearly spell out the change in fact situation, to canvass for such an order. Ordinarily, the matters, which have been canvassed in the earlier application, cannot be re-agitated on the very same grounds in the subsequent applications. It was held that filing successive bail

applications without there being a change in fact situation would clearly amount to abuse of process.

10. In the case on hand, I am unable to accept the contention raised by the petitioner that he had appeared before the investigating officer and that he was thoroughly interrogated. In his statement he has asserted that the assertion made by the petitioner is incorrect. Having scrutinized the materials and after considering the submissions advanced, I find no reason to allow these applications. The applicant shall surrender before the investigating officer or the court having jurisdiction forthwith and seek regular bail. If an application for bail is filed, the same shall be considered and orders shall be passed on its merits.

These Bail Applications will stand dismissed.

SD/-

RAJA VIJAYARAGHAVAN V
JUDGE