

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 30TH DAY OF NOVEMBER 2023 / 9TH AGRAHAYANA, 1945

BAIL APPL. NO. 9699 OF 2023

CRIME NO.470/2023 OF Kodanad Police Station, Ernakulam

PETITIONER

SOMAN PILLAI. S,
AGED 72 YEARS
S/O SIVARAMA PILLAI, ANJANEYAM HOUSE, KOOVAPPADY.
P.O, KOOVAPPADY, ERNAKULAM, PIN - 683544
BY ADVS.
RAJEESH V.R.
P.SAJU
R.SUDHEER
K.N.RAJANI
BIMAL B. KRISHNAN
R.PRATHEESH (ARANMULA)

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031
- 2 HARINANDHANAN E.K
S/O KUTTAPAN NAIR, PUTHENPURACKAL HOUSE,
KARATTUPALLIKKARA, PERUMBAVOOR P.O.

IS IMPEADED AS ADDL. R2 AS PER ORDER DATED
22/11/2023 IN CRL. MA. 1/2023.
BY ADV R.DIVAKARAN

OTHER PRESENT:

T.V.NEEMA-SR.GP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This application is filed u/s 438 of the Code of Criminal Procedure seeking pre-arrest bail.

2. The applicant is the sole accused in Crime No.470/2023 of Kodanadu Police Station. The offences alleged are punishable under Sections 406, 420, 468 and 471 of IPC.

3. The prosecution case, in short, is that the defacto complainant and the applicant are running a paper carton manufacturing unit in the name and style "New Kairali Cartons" based on Annexure A partnership agreement. As per the terms of the partnership agreement, the defacto complainant invested Rs.30 lakhs as working capital and the applicant agreed to contribute a new machinery and a shed as his share capital. According to the prosecution, the applicant with the intention to cheat the defacto complainant contributed old machinery instead of new machinery as agreed and also did not give the profit share to the defacto complainant. It is also alleged that the applicant forged the signature of the defacto complainant in a cheque of Rs.8,00,000/-.

4. I have heard Sri.Rajeesh V.R, the learned counsel

for the applicant, Sri.R.Divakaran, the learned counsel for the defacto complainant and Smt. T.V Neema, the learned Senior Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. The counsel further submitted that no materials are on record to connect the applicant with the alleged crime; hence he is entitled to get bail. The learned Public Prosecutor, on the other hand, submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and if he is released on bail at this stage, it will affect the course of the investigation.

6. The applicant is a senior citizen aged 72 years. Annexure C produced along with the Bail Application would show that the applicant is suffering from various ailments. No criminal antecedents are reported against the applicant. It appears from the record that there is dispute between the applicant and the defacto complainant, pertaining to the running of partnership business. According to the applicant, he found out certain misappropriations committed by the defacto complainant and filed complaint before the police.

Annexure D is one of those complaints. Considering the allegations levelled against the applicant, his custodial interrogation does not appear to be necessary. For these reasons, it is a fit case where pre-arrest bail can be granted to the applicant.

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

(i) The applicant shall be released on bail in the event of his arrest on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the arresting officer/investigating officer, as the case may be.

(ii) The applicant shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for discovery, if any, as and when demanded.

(iii) The applicant shall appear before the investigating officer between 10.00 a.m. and 11.00 a.m. every Saturday until further orders. He shall also appear before the investigating officer as and when required.

(iv) The applicant shall not commit any offence of a like nature while on bail.

(v) The applicant shall not 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.

(vi) The applicant shall not leave the State of Kerala without the permission of the trial Court.

(vii) The application, if any, for deletion/modification of bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court.

Sd/-

DR. KAUSER EDAPPAGATH
JUDGE

smm

APPENDIX OF BAIL APPL. 9699/2023

PETITIONER ANNEXURES

Annexure A	TRUE COPY OF THE PARTNERSHIP AGREEMENT
Annexure B	TRUE COPY OF THE FIR IN CRIME NO. 470/2023 OF KODANADU POLICE STATION
Annexure C	TRUE COPY OF THE PETITIONER'S TREATMENT RECORDS
Annexure D	TRUE COPY OF THE COMPLAINT LODGED BY THE PETITIONER BEFORE SHO KODANADU POLICE STATION