



2025:KER:7072

BAIL APPL. NO. 1179 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 29TH DAY OF JANUARY 2025 / 9TH MAGHA, 1946

BAIL APPL. NO. 1179 OF 2025

CRIME NO.64/2025 OF Koothattukulam Police Station

PETITIONERS/ACCUSED NOS.1 TO 5:

- 1 K.R JAYAKUMAR
AGED 58 YEARS
S/O RAMAN NAIR, KAPPIL HOUSE, KAIPATTUR P.O,
ARAKUNNAM, ERNAKULAM., PIN - 682313
- 2 P.C JOSE
AGED 60 YEARS
S/O CHACKO, KADUMMAKIL HOUSE, KIZHAKOMBU P.O,
KOOHATTUKULAM, ERNAKULAM, PIN - 686662
- 3 PRINCE PAUL JOHN
AGED 53 YEARS
S/O V.P. JOHN, VANDAMPRAPUTHENPURAYIL,
KOOHATTUKULAM, ERNAKULAM, PIN - 686662
- 4 REJI JOHN
AGED 53 YEARS
S/O JOHN, PLATHOTTATHIL HOUSE, OLIYAPURAM P.O,
KOOHATTUKULAM, ERNAKULAM, PIN - 686662
- 5 BOBAN VARGHESE
AGED 60 YEARS
S/O VARKEY, MALEMANGALATHU HOISE,
KOOHATTUKULAM P.O, ERNAKULAM, PIN - 686662
BY ADVS.



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**V. JOHN SEBASTIAN RALPH
RALPH RETI JOHN
VISHNU CHANDRAN
GIRIDHAR KRISHNA KUMAR
GEETHU T.A.
MARY GREESHMA
LIZ JOHNY
KRISHNAPRIYA SREEKUMAR**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031**

SRI NOUSHAD KA, SR PP

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
29.01.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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P.V.KUNHIKRISHNAN, J.

B.A.No.1179 of 2025

Dated this the 29th day of January, 2025

ORDER

Former President of the United States of America, Mr.Abraham Lincoln, decades back, narrated democracy in beautiful words like this: ***“Democracy is the government of the people, by the people and for the people”***. India is one of the biggest democratic countries in the world. Therefore, every action of the citizens of our country should be to promote democratic principles and if a person goes against the same, people will show his way out in the next election through their ballot paper.

2. The representatives elected in a democratic manner represent the will of the people elected. It includes the will of the political affiliation of the people who elected the representative. In other words, it is a bond between the people



and the elected representative. If the elected representative wants to change his policy or political affiliation, he has to resign and face the mandate of the people again. That is the moral side of democracy. Otherwise, it will be a unilateral withdrawal from the bond executed with the people by the elected representative. It will be an insult to the will of the people. But the people can show their will to such a representative in the next election either by supporting him or by defeating him. That is the beauty of democracy. But an elected representative going against the will of the people should not be confronted physically by attacking that representative. The people can show their power through their ballot papers.

3. Petitioners are accused in Crime No.64/2025 of Koothattukulam Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 115(2), 126, 74, 76, 189, 191 and 190 of the Bharatiya Nyaya Sanhita (for short, BNS). The crux of the prosecution case is as follows: The defacto complainant is one of the 13 Left



Democratic Front (for short, LDF) Councillors of Moovatupuzha Nagara Sabha. The opposition moved a no-confidence motion. When the de facto complainant reached the Nagara Sabha Office to attend the no-confidence motion moved by the United Democratic Front (for short, UDF), the petitioners and a few other identifiable persons assaulted her and thus she sustained an injury on her knee and pain in her abdomen. It is also alleged that the accused persons pulled her saree and thereby outraged her modesty.

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

5. The counsel for the petitioners submitted that Moovatupuzha Nagara Sabha has 25 councillors. Among them 13 are from LDF, 11 are from UDF and 1 is independent. The independent councillor is supporting UDF. Thus the Nagara Sabha is led by LDF with the majority of one seat; i.e., at 13:12. It is submitted that one of the LDF councillors, Kala Raju, decided to vote in favour of the no-confidence motion being moved by UDF. In that case, it will be a 13:12 situation in favour



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of the UDF and the LDF will lose the right to govern the Nagara Sabha. Knowing this, the LDF people, on 18.01.2025, forcefully abducted the aforementioned Kala Raju and prevented her from voting. Based on a complaint filed by the son of Kala Raju, Crime No.61/2025 was registered under Sections 140(3), 126(2), 115(2), 189(2) and 191(2) read with Section 190 of BNS against five persons by name and 45 identifiable persons. Annexure-1 is the FIR. According to the counsel for the petitioners, the offences alleged in Crime No.64/2025 against the petitioners will not stand. The non-bailable offences alleged are under Sections 74 and 76 of BNS. The ingredients of the said Section are not attracted. It is also submitted that the 3rd petitioner anticipating issues in the no-confidence motion had moved W.P.(C). No.1883/2025 and this Court was pleased to pass an order in the above writ petition directing the respondents therein to ensure that law and order is maintained during the no-confidence motion. It is submitted that Annexure-3 is the order. To escape from Crime No.61/2025, present Crime No.64/2025 is registered at the instance of LDF



supporters is the submission. The Public Prosecutor opposed the bail application and submitted that the allegations against the petitioners are very serious.

6. This Court considered the contentions of the petitioners and the Public Prosecutor. As I mentioned earlier, the democracy in our country is leading to conflict, disruptions and vandalism on the streets. As I mentioned earlier, the proper manner by which a person is to be defeated in a democratic set-up is through the ballot papers and not by using weapons or by committing vandalism. In this case, both sides are trying to take the law into their own hands instead of approaching the people in a democratic manner. As I mentioned earlier, a person who was elected with the support of LDF workers suddenly changed her political affiliation to another party forgetting the moral side of the democratic principles. In such a situation, there may be some embarrassment to the LDF workers. That may be the reason for these two crimes. Considering the facts and circumstances of this case, I think the petitioners can be released on bail.



7. 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.

8. Recently the Apex Court in **Siddharth v State of Uttar Pradesh and Another [2021(5)KHC 353]** considered the point in detail. The relevant paragraph of the above judgment is extracted hereunder:

“12. We may note that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful



does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. (Joginder Kumar v. State of UP and Others (1994 KHC 189: (1994) 4 SCC 260: 1994 (1) KLT 919: 1994 (2) KLJ 97: AIR 1994 SC 1349: 1994 CriLJ 1981)) If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation we fail to appreciate why there should be a compulsion on the officer to arrest the accused."

9. In **Manish Sisodia v. Central Bureau of Investigation [2023 KHC 6961]**, the Apex Court observed that even if the allegation is one of grave economic offences, it is not a rule that bail should be denied in every case.

10. Considering the dictum laid down in the above decisions and the facts and circumstances of this case, I think



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bail can be granted after imposing stringent conditions.

Therefore, this Bail Application is allowed with the following directions:

1. The petitioners shall appear before the Investigating Officer within two weeks from today and shall undergo interrogation.
2. After interrogation, if the Investigating Officer propose to arrest the petitioners, they shall be released on bail on 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 arresting officer concerned.
3. The petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners shall cooperate 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 him from disclosing such facts to the Court or to any police officer.

4. Petitioners shall not leave India without permission of the jurisdictional 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. Needless to mention, it would be well within the powers of the investigating officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioners even while the petitioners are on bail as laid down by the Hon'ble Supreme Court in



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Sushila Aggarwal v. State (NCT of Delhi) and another [2020 (1) KHC 663].

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. The prosecution and the victim are at liberty to approach the jurisdictional Court to cancel the bail, if any of the above conditions are violated.

sd/-
P.V.KUNHIKRISHNAN
JUDGE

JV