

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 08TH DAY OF JULY 2020 / 17TH ASHADHA, 1942

Bail Appl..No.1653 OF 2020

CRIME NO.290/2020 OF Ettumanoor Police Station , Kottayam

PETITIONER:

ANEESH B. KUMAR
AGED 42 YEARS
S/O.BHASKARAN NAIR, ARUN BHAVAN,
ARUMANOOR, KOTTAYAM.

BY ADVS.
SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY
SRI.D.FEROZE
SRI.K.ANAND (A-1921)

RESPONDENTS/STATE AND COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
CRIME NO.290/2020 OF ETTUMANOOR POLICE STATION,
KOTTAYAM DISTRICT) .
- 2 STATION HOUSE OFFICER,
ETTUMANOOR POLICE STATION,
KOTTAYAM DISTRICT-686 631.
CRIME NO.290/2020 OF ETTUMANOOR POLICE STATION,
KOTTAYAM DISTRICT) .

BY SR.PP. SRI.B. JAYASURYA

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
08.07.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R**Dated this the 8th day of July 2020**

The petitioner is the sole accused in Crime No.290/2020 of Ettumanoor Police Station. The above case is registered based on a complaint filed by the Family Court Judge, Ettumanoor, which is addressed to the Superintendent of Police, Kottayam. The case was registered against the petitioner alleging the offences punishable under Sections 353, 354(A)(1)(iv) and 509 IPC.

2. The prosecution case is that on 20.2.2020, when the court proceedings was going on at Family Court, Ettumanoor, the petitioner who is a registered Advocate Clerk entered the court hall and attempted to attract the attention of a lawyer. According to the learned Family Court Judge, this interrupted the court proceedings. The presiding officer stopped the proceedings and stared towards the petitioner. Then the petitioner left the court room. When a Police Constable questioned the petitioner, he used filthy languages. The Police Constable informed the same to the presiding officer. Hence the

learned Family Court Judge sent a complaint to the Superintendent of Police, Kottayam, which was forwarded to the Ettumanoor Police Station and the Ettumanoor Police registered the case alleging the offences punishable under Sections 353, 354(A)(1)(iv) and 509 of IPC.

3. The learned counsel for the petitioner submitted that the petitioner is a registered Advocate Clerk working in Ettumanoor court for about 35 years. He has not committed any offence intentionally. According to him, in a spur of moment he made certain words for which he regrets. He is ready to apologize before the learned Judge. Moreover, the counsel also submitted that even if the entire allegations are accepted, no offence under Section 353 IPC is made out. The other offences alleged against the petitioner are all bailable offence.

4. The learned Public Prosecutor seriously opposed the bail application. The learned Public Prosecutor submitted that a registered Advocate Clerk, who is aware about the court proceedings, entered the court hall and interrupted the court proceedings. He used filthy languages against the court. Such a person is not entitled to the benefit of the provisions under Section 438 of Cr.P.C.

5. After hearing both sides, I also feel that the action of

the petitioner cannot be appreciated. The petitioner claims that he is a registered Advocate Clerk and working in the courts at Ettumanoor. He should know how to behave in a court. A reading of the complaint made by the Family Court Judge, Ettumanoor will show the way the petitioner behaved in a court hall. It cannot be accepted from an Advocate Clerk who is a part of the system.

6. But I have to consider the bail application in the legal manner also. Admittedly, the offences alleged against the petitioner are under Sections 353, 354(A)(1)(iv) and 509 IPC. Sections 354(A)(1)(iv) and 509 IPC are bailable offences. The only offence registered against the petitioner, which is non bailable is under Section 353 IPC. To attract Section 353 IPC assault or criminal force to deter public servant from discharge of his duty is necessary. The assault and criminal force are defined in Sections 350 and 351 IPC. Evenif, the entire averments in the complaint made by the learned Family Court Judge are accepted, no offence under Section 353 IPC is made out. I make it clear that, I made this observation only for the purpose of considering this bail application. The investigating officer is free to investigate the matter in detail and if any offence is made out subsequently, the investigating officer is

free to proceed. In the light of the fact that prima facie offence under Section 353 IPC is not made out in this case, I think, this bail application can be allowed on stringent conditions. The behaviour of the petitioner, who is a registered Advocate Clerk cannot be appreciated. Therefore, the petitioner shall not enter any of the court halls in Kottayam District till the investigation and trial in this case if any is over, except for appearance in court in connection with this case. With this condition, this bail application can be allowed.

1. The petitioner 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 petitioner, he shall be released on bail executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the officer concerned.

3. The petitioner shall not enter any of the court hall in Kottayam District till the investigation and trial if any, in Crime No.290/2020 of Ettumanoor Police Station is concluded.

4. The petitioner shall appear before the Investigating Officer on all Mondays and Fridays at 10 am till the final report is filed before the court concerned.

5. The petitioner shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

6. The petitioner 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 declared lockdown.

7. If any of the above conditions are violated by the petitioner, 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

ab