

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943

BAIL APPL. NO. 336 OF 2022

**CRIME NO.2055/2021 OF ALUVA EAST POLICE STATION, Ernakulam
AGAINST THE ORDER/JUDGMENT IN CRMC 2593/2021 OF II ADDITIONAL**

DISTRICT COURT, ERNAKULAM

Bail Appl. 9575/2021 OF HIGH COURT OF KERALA

PETITIONER/1ST ACCUSED:

MOHAMMED SUHAIL, AGED 27 YEARS
S/O.YUSUF, MALEKKUDY HOUSE, IRUMALAPPADY BHAGAM,
KUTTILANJI KARA, ERAMALLUR VILLAGE, IRMALLUR
P.O., KOTHAMANGALAM TALUK, ERNAKULAM DISTRICT - 686
691.

BY ADVS.K.N.ABHILASH
SUNIL NAIR PALAKKAT
M.A.AHAMMAD SAHEER
P.B.MUHAMMED AJEESH
RITHIK S.ANAND

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
- 2 DEPUTY SUPERINTENDENT OF POLICE
CRIME BRANCH, ERNAKULAM RURAL, ALUVA, ERNAKULAM
DISTRICT - 683 101.
- 3 DILSHAD, AGED 51 YEARS, S/O.SALIM, KAKKATTIL HOUSE,
KEEZHMAD VILLAGE, EDAYAPPURAM, ALUVA, ERNAKULAM
DISTRICT - 683 105.

SRI. NOUSHAD.K.A. (SR.P.P)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
31.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for regular bail.

2. The petitioner is the 1st accused in Crime No.2055/2021 of Aluva East Police Station, Ernakulam District, alleging commission of offences under Sections 498A, 304B and 306 of the Indian Penal Code r/w. Section 34 of that Code. The aforesaid crime was originally registered under Section 174 of the Code of Criminal Procedure on account of the unfortunate demise of one Mofiya Parveen (hereinafter referred to as 'the deceased') due to suicide.

3. The petitioner got married to the deceased on 3.4.2021 by way of a '*Nikah*'. It is submitted that though the ceremony known as '*Walima*' was not conducted, the petitioner and the deceased had lived together for some months. It is alleged that, after the *Nikah*, the deceased was subjected to all forms of mental and physical cruelty and was harassed with demands for dowry/gold. This led to the deceased filing a complaint before the Superintendent of Police, Aluva Rural, on 28.10.2021, where certain allegations of harassment including demand for unnatural sex have also been raised. There appears to have been some communication between the petitioner and the deceased regarding the termination of their relationship by pronouncement of the '*talaq*'. The Mahal Committees of the 1st petitioner and the deceased had also intervened in the matter. There are records which suggest that the petitioner and the deceased had attended the counselling session, where certain observations were made regarding the behaviour of the

petitioner. It appears that a complaint dated 28.10.2021 before the Superintendent of Police, Aluva Rural resulted in the Circle Inspector of Police, Aluva East Police Station summoning the parties to the Police Station on 22.11.2021. There is an allegation that the then Circle Inspector of Police, Aluva East Police Station had behaved rudely and badly to the deceased. There is also an allegation that, when the petitioner raised some allegations against the deceased, she had slapped him in the presence of the Circle Inspector. It appears that the deceased left the office of the Circle Inspector along with her father and thereafter, on reaching her house, she locked herself in her room and in the evening of 22.11.2021 her parents found that she had committed suicide by hanging, after leaving a suicide note.

4. The learned counsel for the petitioner submits that the entire allegations raised against the petitioner are absolutely baseless. It is submitted that while there were some matrimonial disputes between the petitioner and the deceased, the allegation that the harassment by the petitioner and his parents had led to the suicide of the deceased is absolutely incorrect. It is submitted that the petitioner has been in custody for 65 days and that a final report has already been filed in the matter. It is submitted that the continued detention of the petitioner is not necessary, in the facts and circumstances of the case. It is also submitted that a reading of the suicide note itself suggests that it was not on account of harassment meted out by the petitioner but the treatment of the deceased by the then Circle Inspector of Police, Aluva East Police Station that was the immediate reason for the

suicide of the deceased.

5. The learned Public Prosecutor and the learned counsel appearing for the *de facto* complainant vehemently oppose the grant of bail. It is submitted that, going by the investigation conducted, the reason for the deceased to commit suicide was clearly the harassment meted out to her by the petitioner and the other accused in the case. It is submitted that statements have been recorded from certain friends of the deceased, which also suggested that she was being harassed continuously by the petitioner and the other accused in the case. It is submitted that a hapless young girl was forced to commit suicide on account of continuous harassment at the hands of the petitioner and the other accused. It is submitted that the grant of bail would not be conducive to the prosecution as there is every chance that material witnesses may be influenced in the matter. The contents of the complaint filed before the Superintendent of Police, Aluva Rural and certain other documents are pointed out by the learned counsel for the *de facto* complainant to suggest that the petitioner is not entitled to be released on bail.

6. I have considered the contentions raised.

7. While it is apparent that the deceased had raised certain serious allegations against the petitioner, I must notice that the petitioner has been in custody for more than 65 days and his continued detention is not necessary for the purpose of any investigation as a final report has already been filed in the matter. I had, by my order dated 4.1.2022, granted bail to the 2nd and 3rd

accused in the case while declining bail to the petitioner herein for reasons indicated therein. However, I am of the opinion that since the petitioner has already been in custody for more than 65 days, he can also be released on bail subject to conditions.

8. In the result this bail application is allowed. It is directed that the petitioner shall be released on bail, subject to the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;
- (ii) The Petitioner shall report before the Investigating officer in Crime No.2055/2021 of Aluva East Police Station on every Saturday at 11 a.m until further orders;
- (iii) The petitioner shall not attempt to influence or intimidate the *de facto* complainant or any witness in Crime No. 2055/2021 of Aluva East Police Station, Ernakulam District;
- (iv) The petitioner shall surrender his passport before the jurisdictional Court. If the petitioner does not have a passport, he shall execute an affidavit to that effect and file the same before the jurisdictional court within seven days of release on bail;
- (v) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, the Investigating officer in Crime No. 2055/2021 of Aluva East Police Station, Ernakulam District may

file an application before the jurisdictional Court for cancellation of bail.

Any observation in this order shall not be construed as a finding by this Court on any issue. The observations are only for the purpose of considering the entitlement or otherwise of the petitioner for bail.

sd/-

**GOPINATH P.
JUDGE**

acd