



2024:KER:93563

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 11TH DAY OF DECEMBER 2024/20TH AGRAHAYANA, 1946

BAIL APPL. NO. 9058 OF 2024

CRIME NO.1009/2024 OF CANTONMENT POLICE STATION,
THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

BALACHANDRA MENON,
AGED 70 YEARS, S/O. K. SIVASANKARA PILLAI,
GREEN HILLS APARTMENT, 21C,
CIVIL STATION ROAD, KAKKANAD, ERNAKULAM,
PIN - 682 030.

BY ADVS.
BEJOY JOSEPH P.J.
M.RAMESH CHANDER (SR.)
GOVIND G. NAIR
BALU TOM
BONNY BENNY

RESPONDENT/COMPLAINANT/STATE:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031.
- 2 STATION HOUSE OFFICER,
CANTONMENT POLICE STATION,
THIRUVANANTHAPURAM, PIN - 695 039.



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**BY ADV
NOUSHAD K.A., SENIOR PUBLIC PROSECUTOR**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11.12.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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P.V.KUNHIKRISHNAN, J

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Dated this the 11th day of December, 2024

O R D E R

This Bail Application is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita.

2. Petitioner is the accused in Crime No.1009/2024 of Cantonment Police Station, Thiruvannathapuram. The above case is registered against the petitioner alleging offences punishable under Sections 354, 509 and 506 of the Indian Penal Code. Subsequently, Section 164 of the Criminal Procedure Code statement was also recorded from the victim in which allegation of rape is also alleged.

3. The case is registered based on a complaint filed by the victim before the 2nd respondent Cantonment Police Station with the allegation that the petitioner, during the time of shooting of his movie titled,



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"Dhe Ingottu Nokkiye" in the year 2007 had committed sexual assault on the victim by hugging her and pressing her breast, and by inviting her and her unnamed friend to the Hotel Room of the petitioner and it is alleged that the petitioner outraged the modesty of the 3rd respondent by committing such sexual acts and putting body fluids on the body of the victim and her unnamed friend. On the basis of this allegation, Crime No.1009/2024 of Cantonment Police Station, Thiruvananthapuram as evident by Annexure-A2 was registered.

4. Heard Senior Counsel Shri.M.Ramesh Chander assisted by Shri.Govind G. Nair for the petitioner and the Public Prosecutor.

5. Senior Counsel who appeared for the petitioner submitted that the present complaint is filed by the victim after about 17 years of the alleged incident. The Senior Counsel submitted that the petitioner is a Film Actor, Director and Script Writer and is known in South India as a Film Director and Actor. He obtained several



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awards including National Awards. This case is filed only with an intention to malign the image of the petitioner. It is also submitted that the petitioner also filed a complaint against the victim and another when there was a threatening phone call, which resulted in Annexure-A1 FIR.

6. The Senior Counsel submitted that, the statement of the victim in her Section 164 Cr.P.C statement is that, there was sexual assault from the petitioner in a room situated in the sixth floor of B.T.H Hotel, Ernakulam. The Senior Counsel submitted that, anybody visited at B.T.H Hotel will know that, there is no six floors in that Hotel.

7. Public Prosecutor opposed the bail application. The Public Prosecutor submitted that serious allegations are there against the petitioner and the Investigating Officer is investigating the matter. At this stage, the petitioner may not be released on bail.

8. I think there is force in the arguments of the petitioner. It is an admitted fact that the alleged



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incident happened in the year 2007. It is an admitted fact that the victim filed the complaint after 17 years of the alleged incident. It is an admitted fact that the petitioner is a known cine artist. He is known as a Film Actor, Director and Script Writer. He directed about 40 films and he obtained two National Awards. He also honoured by the Nation by giving Padma Shri also. Based on the statement of a lady, that also after 17 years, the present case is registered. It is true that the investigation is going on. But, everybody must remember that the pride and dignity is not only to woman, but to men also. I leave it there. This is a fit case in which this Court has to grant bail to the petitioner in the interest of justice.

9. 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



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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.

10. 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.”



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11. 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 offence, it is not a rule that bail should be denied in every case.

Considering the dictum laid down in the above decision and considering the facts and circumstances of this case, this Bail Application is allowed with the following directions:

1. The petitioner 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 petitioner, he shall be released on bail on 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



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satisfaction of the arresting officer
concerned.

3. The petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate 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.

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

AMR



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APPENDIX OF BAIL APPL. 9058/2024

PETITIONER'S ANNEXURES

- Annexure A1** **TRUE COPY OF THE FIR IN CRIME NO.
27/2024 OF THE CYBER CRIME POLICE
STATION, ERNAKULAM DATED 02.10.2024.**
- Annexure A2** **TRUE COPY OF THE FIR IN CRIME NO.
1009/2024 OF THE CANTONMENT POLICE
STATION, THIRUVANANTHAPURAM CITY DATED
30.09.2024.**