

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K.HARIPAL

MONDAY, THE 4TH DAY OF APRIL 2022 / 14TH CHAITHRA, 1944

BAIL APPL. NO. 2547 OF 2022

**AGAINST THE ORDER/JUDGMENT IN CC 368/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,
KANNUR**

PETITIONER/7TH ACCUSED:

NOMAN

AGED 37 YEARS

S/O RAISAL, ,

RESIDING AT "SAMSHABAD", KHENCHEFAN,

PUNAHANA PO,

MEWAT DISTRICT,

HARYANA STATE

, PIN - 122508

BY ADVS.

M.K.SUMOD

ABDUL RAOOF PALLIPATH

K.R.AVINASH (KUNNATH)

VIDYA M.K.

RESPONDENT/STATE:

THE STATE OF KERALA

REPRESENTED BY

PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

ERNAKULAM, PIN - 682031

BY ADV PUBLIC PROSECUTOR

SRI. HRITHWIK C.S-SR.PP

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04.04.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ORDER

Petitioner is the 7th accused in Crime No. 41 of 2021 of Kannapuram police station in Kannur district, which was registered on 22.02.2021 alleging offence punishable under Sections 457, 380, 414, and 461 read with 34 of the Indian Penal Code. The learned counsel for the petitioner submits that he was arrested on 04.03.2021, for more than one year he is in judicial custody, he has no direct role in the commission of the crime and hence he is sought to be released on bail under Section 439 of the Cr.P.C. According to the learned counsel, the petitioner is prepared to abide any condition imposed by this Court.

2. This is the second application for bail moved by the petitioner. According to the learned counsel for the petitioner he is a lorry driver who had been returning after unloading chappals carried from Haryana, he has wife and five children, he is the sole breadwinner of the family, that after affecting covid his wife has fallen seriously ill, so far she has not recovered from the ailment, his presence at home is

absolutely essential.

3. But the learned Senior Public Prosecutor has strongly opposed the application. According to him, there are two cases of similar nature registered against him, that it is understood that he is involved in more crimes in different parts of the country and therefore it is not advisable to release him on bail. According to the learned Senior Public Prosecutor, he was apprehended with much difficulty from Haryana, if he is released on bail at this stage when the trial has commenced, prosecution would not be able to apprehend him again and the proceedings will be stalled.

4. The allegations raised against the petitioner are very serious. The allegation is that the accused persons had committed burglary in an ATM counter and committed theft of Rs.4,30,500/-, which led to the registration of Crime No. 41 of 2021 of Kannapuram police station in Kannur district. On conclusion of investigation, charge sheet has already been laid. Now it is pointed out that the trial has already commenced.

5. In the circumstances and having regard to the gravity of the offence and antecedents of the petitioner it is not expedient in the interest of justice to release him on bail at this stage. The argument that he did not play active role in the commission of the crime does not seem correct. It is also evident that he was arrested from Haryana with difficulty. Such a person cannot be released on bail at this stage. Therefore the application for bail cannot be considered. However, since it is pointed out that the trial is already underway, the learned Magistrate is directed to conclude the trial and dispose of the case within a period of six months from the date of receipt of a copy of this order.

The Bail Application is disposed of as above.

Sd/-

K. HARIPAL
JUDGE

APPENDIX OF BAIL APPL. 2547/2022

PETITIONER ANNEXURES

Annexure 1

**TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN
BAIL APPLICATION NO. 7040/2021 DATED: 30/09/2021**

TRUE COPY

P . A . TO JUDGE