

Muhammed Farook vs State Of Kerala on 7 March, 2025

Author: P.V.Kunhikrishnan

Bench: P.V.Kunhikrishnan

BAIL APPL. NO. 3019 OF 2025

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2025:KER:19670

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 7TH DAY OF MARCH 2025 / 16TH PHALGUNA, 1946

BAIL APPL. NO. 3019 OF 2025

CRIME NO.195/2024 OF Harippad Police Station, Alappuzha

PETITIONER/S:

MUHAMMED FAROOK
AGED 27 YEARS
S/O.SHIJAR, KADAVIL VEETIL, PAYIPPAD MURI,
VEEYAPURAM VILLAGE, ALAPPUZHA, PIN - 689573

BY ADVS.
V.VISAL AJAYAN
A.SREEPRIYA
FRANCIS THENAMPARAMBIL

RESPONDENT/S:

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

OTHER PRESENT:

SR PP- NOUSHAD K A

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
07.03.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

BAIL APPL. NO. 3019 OF 2025

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2025 :KER: 19670

P.V.KUNHIKRISHNAN, J

B.A. No.3019 of 2025

Dated this the 7th day of March, 2025

ORDER

This Bail Application is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita.

2. Petitioner is an accused in Crime No. 195/2024 of Haripad Police Station. The above case is registered against the petitioner alleging offences punishable under Secs. 452, 341, 307 & 324 of the Bhartiya Nyaya Sanhita, 2023 (BNS).

3. The prosecution case is that, on 02.03.2024 at about 4.45 pm, the petitioner on account of previous enmity towards CW1, with an intention to kill him, trepassed into the shop, wrongfully restrained CW1 and stabbed him on 2025:KER:19670 his right shoulder, as a result of which, he sustained serious injuries. Hence, it is alleged that the accused committed the offences.

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

5. The counsel for the petitioner submitted that the petitioner is in custody from 02.03.2024. The petitioner is ready to abide any conditions, if this Court grants him bail. The Public Prosecutor opposed the bail application. The Public Prosecutor submitted that there is criminal antecedents to the petitioner and he is involved in two other cases.

6. This Court considered the contentions of the petitioner and the Public Prosecutor. Admittedly, the final report in the above case is already filed. The trial is not started. The case is now posted for framing charge to 28.03.2025. The petitioner is in custody for the last one year. I am of the considered opinion that indefinite incarceration of 2025:KER:19670 the petitioner is not necessary. Therefore, the petitioner can be released on bail, after imposing stringent conditions.

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. Moreover, in *Jalaluddin Khan v. Union of India* [2024 KHC 6431], the Hon'ble Supreme Court observed that:

"21. Before we part with the Judgment, we must mention here that the Special Court and the High Court did not consider the material in the charge sheet objectively. Perhaps the focus was more on the activities of PFI, and therefore, the appellant's case could not be properly appreciated. When a case is made out for a grant of bail, the Courts 2025:KER:19670 should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Art.21 of our Constitution." (underline supplied)

9. In *Manish Sisodia v. Directorate of Enforcement* [2024 KHC 6426], also the Hon'ble Supreme Court observed that:

"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well - settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play 2025:KER:19670 safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non - grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception"."

10. 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. Petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

2. The petitioner shall appear before the Investigating Officer for interrogation as and 2025:KER:19670 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.

3. Petitioner shall not leave India without permission of the jurisdictional Court.
4. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
5. 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.

The prosecution and the victim are at liberty to 2025:KER:19670 approach the jurisdictional court to cancel the bail, if there is any violation of the above conditions.

Sd/-

P.V.KUNHIKRISHNAN JUDGE SKS