

Rahul Babu vs State Of Kerala on 22 April, 2025

2025:KER:32887

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 22ND DAY OF APRIL 2025 / 2ND VAISAKHA, 1947

BAIL APPL. NO. 5183 OF 2025

CRIME NO.89/2025 OF MARAYAMUTTAM POLICE STATION,

THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

RAHUL BABU
AGED 36 YEARS
S/O. BABU, LEKSHAM VEEDU, MANALUVILA, MARAYAMUTTOM
P.O., PERUMKADAVILA, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT, PIN - 695121

BY ADVS.
G.SUDHEER
R.HARIKRISHNAN (H-308)

RESPONDENT/COMPLAINANT:

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

OTHER PRESENT:

SRI.RENJITH GEORGE, SR.P.P.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
BAIL APPL. NO. 5183 OF 2025 2

2025:KER:32887

MURALEE KRISHNA S.

B.A. No.5183 of 2025

Dated this the 22nd day of April, 2025

ORDER

This Bail Application is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita 2023 (for short 'BNSS').

2. Petitioner herein is the sole accused in Crime No.89/2025 of Marayamuttam Police Station, Thiruvananthapuram, registered for the offences punishable under Sections 296(b), 115(2), 118(1) & 85 of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and 31(1) of Protection of Women from Domestic Violence Act, 2005.

3. The prosecution case is that, on 18.01.2025, at about 10.30 hours, from their house, the petitioner, who is the husband of the defacto complainant assaulted the defacto complainant and caused injury to her by using a chopper. Thus, the accused allegedly committed the above offences.

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

2025:KER:32887

5. The learned counsel for the petitioner submitted that a false case is foisted against the petitioner due to some trivial family issues. The petitioner is ready to cooperate with the investigation.

6. The learned Public Prosecutor opposed the bail application. The Public Prosecutor submitted that, it is in violation of a protection order granted by the learned Magistrate in a petition filed by the defacto complainant under the provisions of Protection of Women from Domestic Violence Act, the petitioner committed the offence and if this Court inclines to grant anticipatory bail, strict conditions may be incorporated so as to protect the interest of the defacto complainant

7. 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 [(2020) 13 SCC 791] after considering the earlier judgments on the point, 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 2025:KER:32887 opportunity of securing fair trial.

8. 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 2025:KER:32887 on the officer to arrest the accused."

9. 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 offences, it is not a rule that bail should be denied in every case.

10. Considering the dictum laid down in the above decisions 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 proposes to arrest the petitioner, he 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 arresting officer concerned.
3. The petitioner shall not enter the house premises of the defacto complainant till the completion of investigation of the above crime, 2025:KER:32887 without obtaining prior permission of the Jurisdictional Court.
4. 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 or her from disclosing such facts to the Court or to any police officer.
5. Petitioner shall not leave India without permission of the jurisdictional Court.
6. Petitioner shall not commit an offence similar to the offence of which he is accused or suspected.

7. Needless to mention, it would be well within the powers of the investigating officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioner even while the petitioner is on bail as laid down by the Hon'ble Supreme Court in 2025:KER:32887 Sushila Aggarwal v. State (NCT of Delhi) and another [2020 (1) KHC 663].

8. It is made clear that if any of the above conditions are violated by the petitioner, the prosecution and the victim are at liberty to approach the jurisdictional Court for cancellation of bail in accordance with law.

Sd/-

MURALEE KRISHNA S., JUDGE MSA 2025:KER:32887 APPENDIX OF BAIL APPL. 5183/2025 PETITIONER ANNEXURES Annexure A 1 COPY OF THE FIR AND FIS IN CRIME NO.

089/2025 OF THE MARAYAMUTTOM POLICE STATION PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT III Annexure A 2 COPY OF THE ORDER IN CRL.M.C. NO.

227/2025 DATED 20.3.2025 PASSED BY THE COURT OF ADDL.SESIONS JUDGE THIRUVANANTHAPURAM IV Annexure A 3 MARAYAMUTTOM POLICE EFFECTED RECOVERY ON 19.1.2025 ITSELF AND THE RECOVERY MAHAZER