

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

BAIL APPL. NO. 4094 OF 2022

CRIME NO.677/2022 OF FORT POLICE STATION, THIRUVANANTHAPURAM

DISTRICT

PETITIONER/ACCUSED:

P.C. GEORGE,
AGED 72 YEARS,
S/O.PLATHOTTATHIL CHACO.
PLATHOTTATHIL HOUSE, ARUVITHARA P.O., ERATTUPETTA,
KOTTAYAM DISTRICT - 686 122.

BY ADVS.
SASTHAMANGALAM S. AJITHKUMAR
SATHEESH MOHANAN
SREEJITH S. NAIR
MEERA P.A.

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031.

BY SRI.T.A.SHAJI, DIRECTOR GENERAL OF PROSECUTION

SRI.P.NARAYANAN, ADDL.SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
27.05.2022 ALONG WITH B.A.NO.3971/2022, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

BAIL APPL. NO. 3971 OF 2022

CRIME NO.487/2022 OF PALARIVATTOM POLICE STATION, ERNAKULAM

DISTRICT

PETITIONER/ACCUSED:

P C GEORGE,
AGED 72 YEARS,
PLATHOTTAM HOUSE, ARUVITHARA KARA
ERATTUPETA VILLAGE, KOTTAYAM DISTRICT - 686 122.

BY ADVS.
P.VIJAYA BHANU (SR.)
P.M.RAFIQ
AJEESH K.SASI
M.REVIKRISHNAN
SRUTHY K.K
GEO PAUL
RAHUL SUNIL
SRUTHY N. BHAT
Thomas J Anakkallunkal

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

BY SRI.T.A.SHAJI, DIRECTOR GENERAL OF PROSECUTION

SRI.P.NARAYANAN, ADDL.SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
27.05.2022 ALONG WITH BA 4094/2022, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

ORDER

Petitioner in both these cases is common. Bail Application No.4094 of 2022 is an application for regular bail filed in respect of Crime No.677 of 2022 of Fort Police Station, Thiruvananthapuram District, while Bail Application No.3971 of 2022 is an application for anticipatory bail in respect of Crime No.487 of 2022 of Palarivattam police station.

2. Crime No.677 of 2022 of Fort Police Station, Thiruvananthapuram was registered alleging commission of offences under Sections 153A and 295A of the Indian Penal Code. The allegation against the petitioner in Bail Application No.4094/2022 is that while attending a function named '*Hindu Maha Sammelanam*' at Thiruvananthapuram, the petitioner made a speech which tends to promote enmity between different groups on the ground of religion and also tends to outrage religious feelings of a particular class of people. In Crime No.487 of 2022 of Palarivattom Police Station, the petitioner is

alleged to have committed offences under the very same provisions of law by making a speech at a function held at a temple within the jurisdiction of the Palarivattom Police Station.

3. The petitioner was arrested in respect of Crime No.677 of 2022 of Fort Police Station, Thiruvananthapuram but was released on bail on production before the learned Magistrate subject to conditions including a condition that reads as follows:

“The accused is directed not to make and propagate controversy statement which may hurt the religious sentiments of others while on bail”.

The prosecution moved an application for cancellation of bail granted in Crime No.677 of 2022 of Fort Police Station, raising two specific grounds. The first ground raised was that the earlier order of the learned Magistrate granting bail to the petitioner was issued without notice to and without hearing the Public Prosecutor. The 2nd ground raised was that the

petitioner made a statement immediately after release on bail that he stands by whatever he stated in the speech which led to registration of Crime No.677 of 2022 of Fort Police Station, Thiruvananthapuram. It is alleged that the said statement was made by the petitioner in front of the Judicial Officers' Quarters at Thiruvananthapuram. The learned Magistrate by order dated 25.05.2022 cancelled the bail granted earlier to the petitioner in Crime No.677 of 2022 of Fort Police Station, Thiruvananthapuram, principally on the ground that the petitioner had been involved in yet another case (Crime No.487/2022 of Palarivattom Police Station), which was found to be a violation of the condition upon which he was granted bail.

4. Following the cancellation of bail, the petitioner was arrested and remanded to custody on 26.05.2022. The petitioner has therefore approached this Court through Bail Application No.4094 of 2022, praying that he may be directed to be released on regular bail. As already noticed,

in Bail Application No.3971 of 2022, the petitioner has approached this Court seeking anticipatory bail in respect of the crime registered against him at the Palarivattom Police Station.

5. Sri.P.Vijayabhanu, the learned Senior counsel appearing for the petitioner in these cases would contend, primarily, that even if the entire statements made by the petitioner are taken into consideration, the offences alleged against him are not attracted. It is submitted that taking bits and pieces of statements from the speech made by the petitioner, it cannot be alleged that the petitioner has committed an offence either under Section 153A or under Section 295A of the Indian Penal Code. It is submitted that the petitioner has been falsely implicated.

6. Sri.T.A.Shaji, the learned Senior Counsel and Director General of Prosecution has been extremely fair in submitting that the main concern of the prosecution is that the petitioner may indulge in the commission of similar offences, if he is released on bail. It is submitted

that the petitioner has, by his conduct, made it clear that he will engage in commission of identical offences. It is submitted that the action of the petitioner which led to registration of Crime No.487 of 2022 of Palarivattom Police Station was also in violation of the condition upon which he was granted bail in the earlier crime registered against him. It is submitted that this indicates without any doubt that the petitioner has no respect for the law. It is also pointed out that the provocative speeches made by the petitioner has resulted in other incidents also, which might tend to disrupt communal harmony in the State. Learned Director General of Prosecutions would also submit that the custody of the petitioner is necessary for the purposes of investigation as the voice sample of the petitioner is to be collected and the question as to whether the petitioner had committed the offences as part of a larger conspiracy is also to be investigated. It is submitted that if at all the petitioner is to be granted bail, it should be on sufficient safe guards to ensure that the

investigation is not tampered with in any manner and also that the petitioner will not indulge in similar offences in future.

7. Learned Senior counsel appearing for the petitioner would submit that the petitioner is a 72 year old man, suffering from various age related illnesses and that he was a member of the Kerala Legislative Assembly continuously for nearly 33 years. It is submitted that the petitioner is not a flight risk and the investigation into the case registered against the petitioner can be conveniently carried out without the petitioner being detained in further custody.

8. Having regard to the facts and circumstances of the case and considering the submissions made by both sides, I am of the opinion that the petitioner can be granted relief. I am of the view that since both the offences registered against the petitioner are punishable with a maximum imprisonment upto three years or fine (unless the case where to come within Sub Section (2) of section 153A), the continued detention of the

petitioner may not be necessary. The fact that the petitioner is a 72 year old man stated to be suffering from various illnesses and the fact that he was a member of the Kerala Legislative Assembly for nearly 33 years also compels me to take the view that he is not likely to flee from justice. Accordingly, these applications for bail are allowed.

In Bail Application No.4094/2022 (Crime No.677/2022 Fort Police Station, Thiruvananthapuram), the petitioner shall be released on bail subject to the following conditions:-

(i) The petitioner shall execute bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like-sum to the satisfaction of the jurisdictional court;

(ii) The petitioner shall not attempt to interfere with the investigation or to influence or intimidate any witness in Crime No. 677/2022 of Fort Police Station,

Thiruvananthapuram;

(iii) Petitioner shall fully co-operate with the investigation including with any scientific procedure that may be required by the prosecution;

(iv) Petitioner shall not make any speech or statement which would tend to result in commission of offences under Sections 153A or 295A of the Indian Penal Code;

(v) The petitioner shall make himself available for interrogation as and when called upon to do so in writing;

(vi) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, it will be open to the prosecution to move this Court , for cancellation of bail.

Bail Application No.3971/2022 is also allowed. It is directed that the petitioner shall be released on bail, in the event of arrest in crime No.487/2022 of Palarivattom police Station subject to the

following conditions:-

(i) The petitioner shall execute bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like-sum to the satisfaction of the Arresting Officer;

(ii) The petitioner shall not attempt to interfere with the investigation or to influence or intimidate any witness in Crime No. 487/2022 of Palarivattom police station;

(iii) Petitioner shall fully co-operate with the investigation including with any scientific procedure that may be required by the prosecution;

(iv) Petitioner shall not make any speech or statement which would tend to result in commission of offences under Sections 153A or 295A of the Indian Penal Code;

(v) The petitioner shall make himself available for interrogation as and when called upon to do so in writing;

(vi) The petitioner shall not involve in any other crime while on bail.

If any of the aforesaid conditions are violated, it will be open to the prosecution to move this Court, for cancellation of bail.

Registry shall communicate the order in Bail Application No.4094/2022 to the Judicial First Class Magistrate-II, Thiruvananthapuram forthwith.

Sd/-
GOPINATH P.
JUDGE

DK/ajt