

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 07TH DAY OF AUGUST 2020 / 16TH SRAVANA, 1942

Bail Appl..No.2015 OF 2020

CRIME NO.161/2020 OF VADANAPPALLY POLICE STATION , THRISSUR
DISTRICT

PETITIONERS/ACCUSED:

- 1 DR. SHINU SYAMALAN
AGED 31 YEARS
W/O.DR.RAHUL K.K. RESIDING AT KANNATHULLY HOUSE,
SANKARAPURAM ROAD, MULAMKUNNATHKAVU P.O-680581,
THRISSUR DISTRICT, KERALA
- 2 SREEKANTAN NAIR,
AGED 60, S/O.LATE RAMAN PILLAI, MANAGING DIRECTOR,
M/S.SURYANSH BROADCASTING PVT.LTD.OWNING FLOWERS
CHANNEL AND 24 CHANNEL HAVING ITS ADMINISTRATIVE
OFFICE AT B-6, ABM TOWES, KADAVANTHRA, ERNAKULAM-
682020

BY ADVS.
SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.JOHNSON GOMEZ
SMT.LIYA ELZA ALEX
SHRI.GAJENDRA SINGH RAJPUROHIT

RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA

BY SRI.AJITH MURALI, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
07.08.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

Dated this the 7th day of August 2020

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This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioners are the accused in Crime No. 161 of 2020 of Vadanapally Police Station, Thrissur District. The above case is registered alleging offences punishable under Section 505(1) (b) of the Indian Penal Code (IPC) and Section 120(0) of the Kerala Police Act.

3. Section 505(1) (b) IPC says that, "whoever makes, publishes or circulates any statement, rumour or report with intent to cause, or which is likely to cause fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility. The maximum punishment that can be imposed under Section 505(1)

(b) IPC is three years.

4. The prosecution case is that, the 1st petitioner is a doctor. The 2nd petitioner is the Managing Director of Flowers T.V. and 24 News Channel. On 9.3.2020 a news was telecasted in the news channel 24x7 in which second accused is an anchor. The show is known as 'Sreekantan Nair Show'. The allegation is that, in the programme, the petitioners tried to publish or circulate rumours or report about the Covid-19 pandemic. On 9.3.2020 at 6 p.m. a patient named Muneer came to Rosh Clinic, Thaikulam with severe fever where the 1st petitioner was working. She informed the matter to the health authorities. The Health Department conducted an enquiry about the patient immediately and realized that the said patient is not affected with the Corono Virus. The health authorities informed the matter to the 1st petitioner. The 1st petitioner hiding the condition of the patient gave false information to create panic among the people and to make a feeling in the people about an

alleged failure in public safety. Hence, a complaint was filed by the District Medical Officer to the District Collector, Thrissur. The District Collector forwarded the complaint to the Station House Officer, Vadanapally Police Station. Accordingly, the present case is registered. The District Medical Officer stated in his complaint that, for mere publicity, the petitioners insulted him and his department. According to the District Medical Officer, the entire statements in the programme are incorrect and the first partitioner who is a doctor participated in the discussion without any responsibility.

5. Heard the learned counsel for the petitioners and the learned public prosecutor.

6. The learned counsel for the petitioners submitted that, even though the entire allegations alleged against the petitioners are accepted, no criminal offence is made out in this case. The counsel submitted that, the 2nd petitioner was trying to make awareness about the Covid-19

situation and hence telecasted such a programme.

7. The learned public prosecutor seriously opposed the bail application. The public prosecutor submitted that, this is a serious matter in which the petitioners were trying to mislead the people by telecasting a programme in which wrong informations are supplied about the Covid-19 pandemic.

8. The first petitioner is a doctor. The 2nd petitioner is a Senior Journalist working in the State of Kerala for the last several years. It is a fact that, the Covid-19 pandemic is facing the country and the officers of the Health Department are working day and night. The work of the Health Department is to be appreciated. There may be some mistakes committed by the officers of the Health Department while facing such a situation. The 2nd petitioner cannot pinpoint such single mistakes and conduct a programme in the channel. This will give a wrong signal to the society. Everybody are human beings. When a pandemic like Covid-19 is spreading

everyday, the Health Department is doing their level best. Pointing out a single incident and making discussion about that in a channel cannot be appreciated. That will only affect the morale of the health workers. This is not journalism.

9. The father of our Nation Mahatma Gandhi once said that the true function of journalism is to educate the public mind, not to stock it with wanted and unwanted impressions'.

10. I have a strong feeling that, a section of the journalist community are forgetting these words of Mahatma Gandhi. Journalism is not for propagating hearsay news. What to publish and what not to publish are to be decided sensibly. The duty of journalists is to tell the truth. In other words, journalists should go back to the actual facts before publishing a news and thereafter make sure that, it is not to tarnish the image of any individual or a section of people. Journalists should not go behind gossips, hearsay news etc.. Once a news is published in a print media or a

visual media, you cannot take it back. The people who watch the news may not see the apology or correction news which is published or telecasted later. Therefore, there is great responsibility to every journalists. Press is the backbone of democracy. Every journalist should start their day remembering the fact that, they are the successors of the legends like Swedeshabhimani Ramakrishna Pillai and Kesari Balakrishna Pillai. The 2nd petitioner is one of the senior journalist in the State. He should show the path to his younger generation. I leave it there.

11. The offence alleged against the petitioners in this case is under Section 505(1)(b) IPC. The maximum punishment that can be imposed under this section is only three years. The other offence alleged is under Section 120(o) of the Kerala Police Act, which is bailable. Considering the entire facts and circumstances of the case, I think, this bail application can be allowed on stringent conditions.

12. Moreover, considering the need to follow social distancing norms inside prisons so as to avert the spread of the novel Corona Virus Pandemic, the Hon'ble Supreme Court in Re: Contagion of COVID-19 Virus In Prisons case (Suo Motu Writ Petition(C) No.1 of 2020) and a Full Bench of this Court in W.P(C)No.9400 of 2020 issued various salutary directions for minimizing the number of inmates inside prisons.

13. 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.

14. 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 petitioners shall appear before the Investigating Officer within ten days from today and shall undergo interrogation;

2. After interrogation, if the Investigating Officer proposes to arrest the petitioners, they shall be released on bail executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the officer concerned;

3. The petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners 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;

4. The petitioners shall not leave India without permission of the Court;

5. The petitioners shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected;

6. The petitioners shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing in the wake of Covid 19 pandemic;

7. If any of the above conditions are violated by the petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

Sd/-

P.V.KUNHIKRISHNAN

JUDGE

pkk