

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 11TH DAY OF MAY, 2020 / 21ST VAISAKHA, 1942

B.A. NO.1147/2020

(CRIME NO.740/2019 OF ALATHUR POLICE STATION,PALAKKAD DISTRICT).

PETITIONER/ACCUSED:

BABU, AGED 51 YEARS,
S/O.DAMODHARAN, KUNNATH
HOUSE, THEKKETHARA, PADOOR
POST, KAVASSERY, ALATHUR
TALUK, PALAKKAD DISTRICT.

BY ADV. NIREESH MATHEW

RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

SRI. AJITH MURALI, PP
SRI. SANTHOSH PETER SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
11.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A. No. 1147 of 2020

Dated this the 11th day of May, 2020

ORDER

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

2. The petitioner is the sole accused in Crime No.740/2019 of Alathur Police Station. The case is registered against the petitioner alleging offences punishable under Sections 448 and 354B of the IPC.

3. The prosecution case is that, on 24.12.2019 at about 9.30 pm, while the defacto complainant was feeding her dog at the rear side of her house, the petitioner barged into her residential yard and pulled her down and mutilated her outfits and thus outraged her modesty.

4. The counsel for the petitioner submitted that the petitioner and the victim lady are neighbours. There is a

dispute regarding a dog belonged to the defacto complainant. Actually no such incident happened.

5. The learned Public Prosecutor submitted that the petitioner and the victim lady are neighbours, and if the petitioner is released on bail, he will go there and create problems.

6. After hearing both sides, I think this bail application can be allowed on conditions. It is admitted case that the petitioner and the lady victim are neighbours. The counsel for the petitioner submitted that there was a quarrel between the family of the petitioner and the victim. But, I am not in a position to decide whether there was a quarrel, and that is why the victim lodged a false case against the petitioner etc. These are matters to be decided at the time of trial. But, in the light of the facts and circumstances of the case, I think, this bail application can be allowed considering the fact that, no custodial interrogation is necessary in this case. Hence, this bail application is allowed.

7. 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 **Writ Petition(C)No.9400 of 2020** issued various salutary directions for minimizing the number of inmates inside prisons.

8. 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.

9. 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 petitioner 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 petitioner, he shall be released on bail executing a 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 officer concerned.

3. The petitioner shall appear before the Investigating Officer as and when required. The petitioner shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. The petitioner 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 declared lock-down.

5. The petitioner shall not enter the jurisdictional limits of Alathur Police Station, till final report is filed in Crime No.740/2019, except for the purpose of appearance before the Investigating Officer.

6. 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.

P.V.KUNHIKRISHNAN, JUDGE