

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 15TH DAY OF MAY 2020 / 25TH VAISAKHA, 1942

BA NO.1171 OF 2020

(CRIME NO. 114/2020 OF KEEZHVAYPUR POLICE STATION,
PATHANAMTHITTA DISTRICT)

PETITIONERS/ ACCUSED 1 TO 7

1. GIREESH KUMAR P.K @ RAJEEV, AGED 42 YEARS, S/O
KAMALASANAN
PUTHUPARAMBIL HOUSE
KUNNAMTHANAM P.O, KUNNAMTHANAM, MALLAPPALLY -689 581
2. RAJEEV. C R , AGED 39 YEARS, S/O RAJU
CHITANGAD HOUSE
KUNNAMTHANAM P.O, KUNNAMTHANAM, MALLAPPALLY -689 581
3. RAMESH M R AGED 50 YEARS , S/O RAJAPPAN
MULAKKUDIYIL HOUSE,
KUNNAMTHANAM P.O, KUNNAMTHANAM, MALLAPPALLY -689 581
4. SREENIVASAN @SANTHOSH , AGED 44 YEARS, S/O
SREEDHARAN,
VALSAVILASAM
MANTHANAM P.O, KUNNAMTHANAM, MALLAPPALLY -689 581
5. PRAMOD C P ,AGED 22 YEARS, S/O PRASANAN
CHITANGOTTU PUTHENPURAYIL HOUSE
MANTHANAM P.O, KUNNAMTHANAM, MALLAPPALLY -689 581
6. MADHUKUMAR D ,AGED 49 YEARS, JANARDHANAN
MADHUVILASAM
MANTHANAM P.O, KUNNAMTHANAM, MALLAPPALLY -689 581
7. AJESH, AGED 38 YEARS, S/O RAVEENDRAN
MAMPARAMBIL HOUSE,
MANTHANAM P.O, KUNNAMTHANAM, MALLAPPALLY -689 581

BY ADV T P PRADEEP

B.A.No. 1171 of 2020

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RESPONDENTS / COMPLAINANTS:

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

2. SUB INSPECTOR OF POLICE,
KEEZHVAYPUR POLICE STATION,
KEEZHVAYPUR P.O, PATHANAMTHITTA DISTRICT. PIN- 689
587

BY P.P. SRI.B.JAYASURYA (SR) & C.K.PRASAD

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
15.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.A.No. 1171 of 2020

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P.V.KUNHIKRISHNAN, J

B.A.No. 1171 of 2020

Dated this the 15th day of May, 2020

ORDER

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

2. Petitioners are accused Nos. 1 to 7 in Crime No. 114 of 2020 of Keezhvaypur Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 143, 147, 148, 149, 294(b), 452, 324 and 308 IPC.

3. The prosecution case is that on 07.02.2020, at about 9.25 p.m., the accused persons formed themselves into an unlawful assembly, trespassed into the house of the defacto complainant and beat him with an iron rod and thereby the defacto complainant sustained injury.

4. The counsel for the petitioners submitted that, the incident is not happened as alleged by the prosecution. According to the counsel for the petitioners, the first and the second accused also sustained injuries and the petitioners produced their discharge card as an Exhibit in this case. He also submitted that, even though complaint is filed against the defacto complainant, no case is registered by the police.

5.The learned Public Prosecutor submitted that, there is no counter case registered in this case. The Public Prosecutor also submitted that, no serious injury is sustained to the defacto complainant.

6.Considering the facts and circumstances of this case, I think this Bail Application can be allowed. No serious injury is sustained to the injured. Moreover, there are two versions about the same incident. The first and the second accused also sustained injuries in the

same incident. These are factors to be investigated by the police. I make this observation only for the purpose of deciding this Bail Application.

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 **W.P(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 petitioners shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioners, they shall be released on bail on 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 petitioners shall appear before the Investigating Officer as and when required. The petitioners shall cooperate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. 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 declared lock-down.

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

P.V.KUNHIKRISHNAN, JUDGE