

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 06TH DAY OF MAY 2020 / 16TH VAISAKHA, 1942

B.A. NO.1242 OF 2020

(Crime No.75/2020 of Arthungal Police Station, Alappuzha District)

**PETITIONER/ACCUSED No.1:**

Sanandu, age 21 years,  
S/o.Subash, Karidaveli,  
Mayithara P.O,  
Cherthala.

By. Adv.B.Pramod

**RESPONDENT:**

State of Kerala  
rep. by the Public Prosecutor,  
High Court of Kerala

**BY P.P.SRI.AJITH MURALI & SANTHOSH PETER(SR)**

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
06.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.No.1242 of 2020  
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Dated this the 6<sup>th</sup> day of May, 2020

**O R D E R**

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

2. Petitioner is the first accused in Crime No.75 of 2020 of Arthungal Police Station, Alappuzha, registered alleging offences punishable under Sections 143, 147, 148, 341, 294(b), 323, 324 & 326 read with 149 of the Indian Penal Code.

3. The prosecution case is that on 31.01.2020, at about 1.30 a.m., the accused assaulted the first informant, used filthy languages. It is alleged that the injured sustained grievous hurt.

4. The counsel for the petitioner submitted that the petitioner also sustained injury in this case and the

incident is not happened as alleged by the prosecution. He submitted that he is ready to comply any conditions.

5. The learned Public Prosecutor submitted that the offence registered against the petitioner includes Section 326 of the Indian Penal Code and therefore, he is opposing the bail application.

6. After hearing both sides, I think, this bail application can be allowed. In this case the petitioner also sustained injury. According to the petitioner, the incident is happened according to his version. The injured says that, the incident is happened according to his version. This is matter to be decided in trial. But, I think, considering the facts and circumstances of the case, this bail application can be 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 **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 petitioner 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 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. 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**

YKB