

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.1460 OF 2020

(Crime No. 1531/2019 of Thiruvalla Police Station, Pathanamthitta District)

**Petitioners/ Accused**

Praveen Aged 31 Years, S/o K N Mohanan,

Elanjiparambil House,

Ruby Nagar P.O, Changanasserry, Kottayam District – PIN – 686 103

By Adv T P Pradeep

**Respondents / Complainants:**

1. State of Kerala, represented

by the Public Prosecutor, High Court of Kerala.PIN 682 031

2. Sub Inspector of Police,

Thiruvalla Police Station,

Thiruvalla P.O, Pathanamthitta District. PIN- 689 101

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:

**P.V.KUNHIKRISHNAN, J**

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B.A.No.1460 of 2020  
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Dated this the 15<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 accused in Crime No.1531 of 2019 of Thiruvalla Police Station registered alleging offences punishable under Sections 450 and 376 of Indian Penal Code.

3.The prosecution case is that, the accused is the owner of a Mobile shop and the defacto complainant is a married lady with children aged 22, 20 and 17 years old. On 15.11.2018, the accused came to her house and committed rape on her. Thereafter, the defacto complainant eloped with the accused and he tied a 'Thali' at Raj Hotel at Bangalore. Thereafter, they lived

together at the Flat of her son at Adoor and at a rented house at Kuttappuzha. Further case of the prosecution is that, the defacto complainant was subjected to cruelty and the accused abandoned her on 8.8.2019. Thereafter, the present complaint is registered and the case is registered as crime No. 1531/ 2019.

4. The counsel for the petitioner submitted that, if the entire allegations are accepted, no offence is made out. Admittedly, the petitioner and the defacto complainant were staying together. He submitted that, he is ready to abide any conditions, if this court grant bail.

5.The learned Public Prosecutor submitted that he has no objection in granting bail to the petitioner, if the petitioner is ready to surrender before the Investigating Officer.

6. Considering the facts and circumstances of this

case, and considering the submission of the learned Public Prosecutor, I think 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**

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