

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.1503 /2020

(Seeking regular bail in in Crime No. 84 of 2020 of the
Kattoor Police Station, Pending before the JFCM,
Irinjalakuda, Thrissur District)

Petitioners/ Accused person 1,2,3,and 5 :-

1. Vishnudas, aged 23, S/o. Anilan, Nochiyil house, Edakkulam P.O., Poomangalam village, Mukundapuram Taluk, Thrissur District,

2. Sachin, aged 24, S/o.Subramanyan, Chundekkattu House, Kattoor Desom Kattoor P.O. Kattoor village, Mukundapuram Taluk, Thrissur District,

3. Subeesh, aged 28, S/o.Subramanyan Parakkal house, Edakkulam P.O., Poomangalam village, Mukundapuram Taluk, Thrissur District,

4. Arjun, aged 21, S/o. Anilan, Nochiyil house, Edakkulam P.O., Poomangalam village, Mukundapuram Taluk, Thrissur District,

Adv.Bitto.N.L.

Respondent/State of Kerala:-

1. The State of Kerala, rep. by the public Prosecutor High court of Kerala at Ernakulam.

2. Sub Inspector of Police, Kattoor Police station, Kattoor P.O., Thrissur district, 680702

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.1503 of 2020

Dated this the 11th 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. Petitioners are the accused nos.1, 2, 3 and 5 in Crime No.84 of 2020 of Kattoor Police Station registered alleging offences punishable under Sections 143, 147, 148, 323, 324, 354, 452 and 506 read with Section 149 of the Indian Penal Code.

3.The prosecution case is that the petitioners trespassed into the house of the de facto complainant and the 7th accused using a stick attacked the de facto complainant and her mother.

4. The counsel for the petitioners submitted that the main overtacts alleged is against the 7th accused. All other accused are arrested. Therefore, the counsel for the petitioners

submitted that the petitioners are ready to abide any conditions, if this court granting bail to the petitioners.

5.The learned Public Prosecutor submitted that the petitioners and other accused trespassed into the house and attacked the de facto complainant and her mother. According to the prosecution, the petitioners went to the house and attacked the brother of the de facto complainant and when brother left the house, they attacked the de facto complainant and her mother.

6.After hearing both sides, I think this bail application can be allowed. The case is registered under Sections 323, 324 and 354 in addition to the other sections. It is the fact to be noted that, how Sections 323 and 324 of the IPC on one side and Section 354 IPC on the other side will go together. Of course it is the matter to be investigated by the investigating officer and is a matter to be decided by the trial court. It is a fact to be noted that the main overtacts is against the 7th accused and he is already arrested. In the fact and circumstances of the case 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 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 co-operate 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

YKB