

Bail Application No. 1648 of 2020

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.S. DIAS

FRIDAY, THE 17TH DAY OF APRIL 2020/28TH CHAITHRA, 1942

Bail Application No. 1648 of 2020

[Crime No. 36/2020 of Poochakkal Police Station, Alappuzha District]

**Petitioner/Accused**

Riyas, aged 24 years, S/o.  
Nisamudheen Jasmine  
Manzil Thrichattukulam  
P.O, Panavally Cherthala

By Adv.John Jude Issac

**Respondent/State and Complainant**

1. State of Kerala
  2. Police Sub Inspector, Poochakkal Police Station
- Both respondents are represented by Public Prosecutor,  
High Court of Kerala, Ernakulam  
By Public Prosecutor Sri.Amjad Ali

THIS B.A. HAVING BEEN FINALLY HEARD ON 17.04.2020, THE COURT ON THE SAME PASSED THE FOLLOWING:

**ORDER**

This application is filed under Sec.439 of the Code of Criminal Procedure.

2. The petitioner is the accused in crime No.36/2020 of Poochakkal Police Station. The petitioner is alleged to have committed offences punishable under Secs 143,147, 148, 341, 324, 326,307 and 120(b) read with Sec.149 of the Indian Penal Code.

3. Prosecution case against the petitioner, in brief, is that the petitioner and the other accused hatched a conspiracy to do away with the husband of the defacto complainant. They formed an unlawful assembly with deadly weapons and in furtherance of their common object, on 21.1.2020, they wrongfully restrained the injured and attacked him with a knife.

The petitioner is alleged to have assaulted the injured with an iron rod.

4. The petitioner was arrested on 23.1.2020.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor, through video conferencing.

6. The learned counsel for the petitioner argued that the petitioner was arrested on 23.1.2020. The accused Nos 4 and 5 have already been granted bail by this Court in B.A No.1646/2020. Similarly, the tenth accused has been granted bail by this Court in B.A No.2287/2020. Likewise, accused nos 1,7,8,9 and 11 have also been granted bail by the Sessions Court. The learned counsel submits that the further detention of the petitioner is unnecessary. He prays that the bail application be allowed.

7. The learned Public Prosecutor opposed the

application.

8. The Hon'ble Supreme Court in *Nikesh Tarachand Shah v. Union of India [2018 (11) SCC 1]* has declared that grant of bail is a rule and refusal is an exception. The accused who enjoys freedom will be in a much better position to defend himself rather than being in custody.

9. In view of the Covid-19 pandemic outbreak in the country, the Hon'ble Supreme Court in WP(C) No.1/2020 as well as a Full Bench of this Court in WP(C) 9400/2020, has issued exhaustive guidelines to de-congest jails in the country.

10. Having considered the facts and circumstances of the case, especially the fact that this Court has already granted bail to the accused Nos 4,5, and 10 in the aforementioned bail applications and also in view of the guidelines issued by the Hon'ble Supreme Court and the Full Bench of this Court, I am inclined to grant bail to the petitioner.

11. In the result, the bail application is allowed on the following conditions:

(i) The Superintendent of Jail where the petitioner is incarcerated is directed to release the petitioner on furnishing his phone number and the phone number of his immediate relative. The Superintendent of jail shall verify the above details and release the petitioner to the Station House Officer of the Police Station which has registered the crime, who in turn shall release the petitioner.

(ii) The petitioner shall within one week from the re-opening of the court, if not already re-opened, execute a bond for a sum of Rs.50,000/- with two solvent sureties for the like sum each to the satisfaction of the jurisdictional court.

(iii) The petitioner shall appear before the Investigating Officer on all Saturdays between 10.00 a.m and 11 a.m till the final report/charge sheet is laid.

(iv) The petitioner shall not tamper with the evidence or influence the witnesses the case in any manner whatsoever.

(v) The petitioner shall not commit any offence while on bail.

(vi) The petitioner shall not leave the country without the permission of the jurisdictional court.

12. Needless to mention that if the petitioner violates any of the conditions above, the Station House Officer shall be

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at liberty to approach the jurisdictional court and file appropriate applications, seeking for cancellation of bail.

**C.S.DIAS**  
**JUDGE**

sks/17.4.2020