

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.1716 OF 2020

(Crime No: 106 of 2020 of Neyyar Dam Police Station, Thiruvananthapuram  
District)

Petitioners/ Accused:

1. Balaji, aged 47 years, S/o P.K. Ramachandran, residing at Sreebalaji Bhavan, Kallikkad P.O, Thiruvananthapuram District, Pin-695 572.
2. Vijayendran V, aged 46 years, S/o Velayudhanasari, residing at Uthradam, Aruvikuzhi, Veeranakavu P.O, Thiruvananthapuram District, Pin-695 572.
3. Srajikumar P.S, aged 35 years, S/o Sasidharan Nair, residing at Sreeja Bhavan, Aruvikuzhi, Veeranakavu P.O, Thiruvananthapuram District, Pin-695 572.

BY ADV. PARVATHY S KRISHNAN

Respondent/State:

State of Kerala, Represented by the Public Prosecutor, High Court of Kerala,  
Ernakulam 682 031.

**BY P.P.SRIAJITH 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.1716 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. Petitioners are the accused in Crime No.106 of 2020 of Neyyar Dam Police Station, Thiruvananthapuram. The case is registered against the petitioners alleging offences punishable under Sections 143, 145, 147, 188, 447, 452, 353 read with 149 of the Indian Penal Code.

3.The prosecution case is that on 21.02.2020, the accused in this case and about 150 identifiable men and 50 identifiable women with a common knowledge and intention unlawfully assembled and trespassed into the

property owned by the Government and obstructed the construction works conducted by the Government.

4. The counsel for the petitioners submitted that it is a temple property and they were trying to protect the temple property.

5.The learned Public Prosecutor submitted that even though non bailable offences are included in this case, if this Court granting bail, stringent conditions may be imposed.

6. Considering the facts and circumstances of the case and the submission of the 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 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 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 to law,  
even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN, JUDGE**

YKB