

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 13TH DAY OF MAY 2020 / 23RD VAISAKHA, 1942

BA NO.1724 OF 2020

(Crime No.124/2020 of Parippally Police Station, Kollam )

**PETITIONERS / ACCUSED NO.1-3**

1. Rahul.R,  
Aged 27 years,  
S/o. Raju, Siji Sadanam,Kottakkakom,  
Parippally P.O., Kollam.
2. Aneesh.S,  
Aged 52 years,  
S/o. Sudharsanan.C,  
Darsanam, Jawahar Junction,  
Parippally, Kollam.
3. Aneesh.S.L,  
S/o. Sudarsanan,  
Puvackattu Puthen veedu,  
Parippally P.O, Kollam.

By Adv. M R Sasith Panicker

**RESPONDENTS**

1. State of Kerala,  
Represented by the Public Prosecutor,  
High Court of Kerala,  
Ernakulam. Pin:682031
2. The Sub Inspector  
Parippally Police Station, Kollam  
Pin:691574

By P.P. Sri.B.Jayasurya (Sr) & Sri. C.K.Prasad

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 13.05.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.No.1724 of 2020  
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Dated this the 13<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 accused no. 1 to 3 in Crime No.124 of 2020 of Parippally Police Station registered alleging offences punishable under Sections 143, 147, 148, 452, 294(b), 341, 323, 324 and 149 of IPC.

3.The prosecution case is that on 21.2.2020 at 7.00pm, on account of the animosity arising out of the incident in which the defacto complainant questioned the 1<sup>st</sup> accused about his drunken drive, the petitioners

along with other 2 unknown, but identifiable accused, trespassed to the defacto complainant's house and attacked the defacto complainant and defacto complainant sustained injuries.

4. The counsel for the petitioners submitted that only non bailable offence alleged against the petitioners is Section 452 of IPC. It is also submitted that the maximum punishment that can be imposed under Section 452 of IPC is below 7 years. He also submitted that, there is no criminal antecedents against the petitioners.

5. The learned Public Prosecutor conceded that, only non bailable offence is under Section 452 of IPC and the maximum punishment that can be imposed is below 7 years. The learned Public Prosecutor submitted that, if this court grant bail to the petitioners stringent conditions may be imposed.

6. After hearing both sides, I think this bail application can be allowed. The only non bailable offence alleged in this case is under Section 452 of IPC. The alleged occurrence happened at 7.00pm. It is also to be noted that no criminal antecedents reported against the petitioners. The maximum punishment that can be imposed under Section 452 of IPC is below 7 years. Considering the facts and circumstances of this 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 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 petitioner/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**

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