

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. 1838/2020

(CRIME NO: 96 OF 2020 OF PULIKEEZHU POLICE STATION,
PATHANAMTHITTA DIST)

PETITIONERS / ACCUSED 3 & 5 :

1.PRAVEEN, AGED 18 YEARS,
IRAMPALLIL HOUSE,
PERINGARA P.O, THIRUVALLA
PATHANAMTHITTA DISTRICT- 689 108

2.HARI ,AGED YEARS 20 YEARS,
THOPPIL HOUSE,
PERINGARA P.O, THIRUVALLA
PATHANAMTHITTA DISTRICT- 689 108

BY ADV. T P. PRADEEP

RESPONDENT / COMPLAINANT:

1.STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA. PIN 682 031

2.SUB INSPECTOR OF POLICE,
PULIKEEZHU POLICE STATION,
PULIKEEZH P.O, PATHANAMTHITTA DISTRICT. PIN- 689 104

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. 1838 of 2020

Dated this the 11th day of May, 2020

ORDER

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioners are the accused Nos.3 & 5 in Crime No.96/2020 of Pulikeezhu Police Station. Above case is registered against the petitioners alleging offences punishable under Sections 451, 294(b), 323, 324, 308 r/w 34 of the IPC.

3. The prosecution case is that, the accused persons along with other accused, on 4.2.2020 in the night, trespassed into the house of the defacto complainant and attacked the defacto complainant and his brother with iron rod because of previous enmity towards the defacto complainant.

4. The counsel for the petitioners submitted that the

allegations against the petitioners are incorrect. He also submitted that, the main accused is already arrested and released on bail. He also submitted that, there is a case and counter case, and the counter case is already registered as Crime No. 97/2020. According to the counsel for the petitioners, the defacto complainant and his party were the aggressors.

5. The learned Public Prosecutor submitted that if this Court is granting bail to the petitioners, stringent conditions may be imposed.

6. After hearing both sides and after considering the facts and circumstances of the case, I think this bail application can be allowed. Admittedly there is a case and counter case. Who is the aggressor is to be decided in the trial by the Court. The investigation in both cases are going on. The main accused is already arrested and released on bail. In such circumstances, I think, bail applications of 3rd and 5th accused, who are the petitioners herein, 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 **Writ Petition(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 proposes to arrest the petitioners, they shall be released on bail on executing separate bonds 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

MMG