

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 15TH DAY OF MAY 2020 / 25TH VAISAKHA, 1942

BA NO.1872 OF 2020

(CRIME NO. 69/2020 OF GURUVAYUR POLICE STATION,
THRISSUR DISTRICT)

PETITIONERS/ACCUSED

1. ANEESH, AGED 32 YEARS S/O. KUMARAN,
ENGADI HOUSE, CHEVALOORPADI,
THRISSUR DISTRICT.
2. SUMESH, AGED 26 YEARS S/O. SOMAN,
EACHILLY HOUSE, BHARAMAKULAM,
THRISSUR DISTRICT.

BY ADV. SRI. K.V.VIMAL

RESPONDENT/COMPLAINANTS:

1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM. KOCHI
PIN- 682031
2. THE SUB INSPECTOR OF POLICE,
GURUVAYUR POLICE STATION,
THRISSUR DISTRICT

BY P.P. SRI.B.JAYASURYA (SR) & C.K.PRASAD

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
15.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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P.V.KUNHIKRISHNAN, J

B.A.No. 1872 of 2020

Dated this the 15th day of May, 2020

ORDER

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

2. Petitioners are accused Nos. 2 and 3 in Crime No. 69 of 2020 of Guruvayoor Police Station. The above case is registered against the petitioners and others alleging offences punishable under Sections 341, 323, 324 and 308 read with Section 34 IPC.

3.The prosecution case is that on 14.02.2020 at about 2.30 p.m., the accused persons, under the impression that the defacto complainant is providing information to the Excise department about their preparation of illicit arrack and wash, attacked the

defacto complainant and his friends using granite stone.

4. The counsel for the petitioners submitted that, the incident is not happened as alleged by the prosecution. No Abkari case is registered against the petitioners. The motive alleged is not correct.

5.The learned Public Prosecutor submitted that, even though the motive alleged for the incident is serious, if this Court is granting bail, stringent conditions may be imposed.

6.Considering the facts and circumstances of this case, I think this Bail Application can be allowed on stringent conditions. No serious injury is sustained to the injured. Moreover, petitioners have got a different case about the incident and of course, this is a matter to be proved before the trial court. In the result, 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. The petitioners shall not enter the jurisdiction limit of Guruvayoor Police Station till the final report is filed in Crime No.69 of 2020.

6. The petitioners shall appears before the Investigating Officer on all Mondays and Fridays at 10.00 a.m., till the final report is filed in Crime No.69 of 2020 of Guruvayoor Police Station.

7. If any of the above conditions

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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

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