

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.1897 OF 2020

Crime 53 of 2020 of the Ollur Police Station coming within the jurisdiction of JFCM, No.III, Thrissur, Thrissur District

Petitioner/1<sup>st</sup> Accused person

Vijith, aged 25, S/o.Sugunan, Thekkethara House, Puzham pallam Desom, Marathakkara Village, Thrissur Takuk, Thrissur District

By Adv.Bitto.N.L.

State of Kerala/Complainant

1. The State of Kerala, rep. by the Public Prosecutor, High court of Kerala at Ernakulam.
2. Sub Inspector of Police, Ollur Police station, Ollur P.O., Thrissur district

**BY P.P.SRI.AJITH 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.1897 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. Petitioner is the 1<sup>st</sup> accused in Crime No.59 of 2019 of Ollur Police Station registered alleging offences punishable under Sections 341, 294(b) 308 read with Section 34 of the Indian Penal Code.

3.The prosecution case is that on 12.01.2020, at about 1.30 pm, in connection with the dispute regarding the parking of a vehicle, 2<sup>nd</sup> accused attacked the de facto complainant using a beer bottle and the de facto complainant sustained contusion on his face. The prosecution case is that the petitioner who is the first accused is also involved in this case.

4. The counsel for the petitioner submitted that the petitioner is innocent in this case. Moreover, he also submitted

that the main allegation is against the second accused. He also submitted that no serious injuries sustained by the de facto complainant.

5.The learned Public Prosecutor submitted that the serious offences are registered against the petitioner and bail may not be granted.

6.After considering the contentions of the petitioner and prosecutor, I think this is a fit case in which bail can be granted. The petitioner is the first accused. The main overtacts is alleged against the second accused. Moreover, no serious injuries is sustained to the petitioner. Custodial interrogation may not be necessary in this case. In such circumstances bail can be granted to the petitioner.

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 petitioner 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 petitioner, he 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 petitioner shall appear before the Investigating Officer as and when required. The petitioner shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. The petitioner 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, the jurisdictional Court can cancel the bail in accordance with law, even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN, JUDGE**