

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. 1909/2020

(CRIME NO.495/2019 OF BEYPORE POLICE STATION,KOZHIKODE DISTRICT).

PETITIONER/ACCUSEDNO.4:

USHAKUMARI SELVARAJAN,
AGED 54 YEARS,
W/O.SELVARAJ, PUNNOOR
KALARICKAL HOUSE,
USHUS, CHENGALLOOR P.O,
PUTHUKKAD, THRISSUR
DISTRICT.

BY ADV. NIREESH MATHEW

RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM

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. 1909 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 petitioner is the 4th accused in Crime No.495/2019 of Beypore Police Station. The case is registered against the petitioner and other accused alleging offences punishable under Sections 498A, 354A(i) r/w 34 of the IPC.

3. The prosecution case is that, from 20.4.2019 i.e., the date of marriage, the defacto complainant and the 1st accused were living as husband and wife in the house of the accused, the 1st accused had scolded her in front of his parents, and it is further alleged that the 2nd accused with sexual intention had hugged her, and the 3rd accused also with sexual intention had touched her body by making her to do exercise.

The 4th accused is the mother-in-law of the defacto complainant.

4. The counsel for the petitioner submitted that no specific allegation is there against the petitioner, who is the 4th accused in this case. It is also submitted that the petitioner is ready to abide by any conditions, if this Court grants bail to her.

5. The learned Public Prosecutor submitted that the bail application can be allowed on stringent conditions.

6. After hearing both sides, and considering the facts and circumstances of the case, and also considering the fact that this is a family dispute, and also considering the fact that the learned Public Prosecutor has no objection in granting bail to the petitioner, 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 **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 petitioner 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 petitioner, she 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 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 to law, even though the bail is granted by this Court.

P.V.KUNHIKRISHNAN, JUDGE

MMG