

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.1958 OF 2020

(Crime No. 66/2020 of Nilambur Police Station,
Malappuram District)

Petitioner/ Accused No. 4

Sybil , aged 30 years
S/o. Joshy Domenic,
Kurisummottill House,
P.O. Ramankuth, Malappuram District.

Adv.SRI. Abdul Raof. P, K.R. Avinash, Prajith Ratnakaran,

Respondents /State & Complainant

1. The State of Kerala, represented by
Public Prosecutor, High Court of Kerala,
Ernakulam-682031
2. The Station House Officer,
Nilambur Police Station,
Malappuram District-679329

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:**

P.V.KUNHIKRISHNAN, J

B.A.No. 1958 of 2020

Dated this the 15th 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 4th accused in Crime No. 66 of 2020 of Nilambur Police Station. The above case is registered against the petitioner and others alleging offences punishable under Sections 353, 294(b), 506(ii) read with 34 of IPC and Section 117(e) of Kerala Police Act and Section 3 (2)(e) of PDPP Act.

3. The prosecution case is that on 05.02.2020, the accused went to the Nilambur Police Station with a person with bleeding injuries and demanded registration of the case against the injured, and they

attempted to attack the injured person from the police station. It is also the case of the prosecution that, the petitioner uttered obscene words. It is also the prosecution case that, the petitioner damaged the CC TV monitor resulting a damage to a tune of Rs.10,000/-(Rupees Ten Thousand only).

4. The counsel for the petitioner submitted that, the incident is not happened as alleged by the prosecution. Actually, there were several complaints against the injured person who was produced by the petitioner before the police station. The police was not acting based on the complaint of the petitioner. In such circumstances, the petitioner and the local people took the injured person to the police station.

5. The learned Public Prosecutor opposed the bail application. The learned Public Prosecutor submitted that, the petitioner has no right to enter the police station and threaten the police officers. He also

submitted that, there was damage to the public property and the damages is assessed as Rs.10,000/- (Rupees Ten Thousand Only). The learned Public Prosecutor submitted that, if this Court is granting bail to the petitioner, there may be a direction to the petitioner to deposit the amount.

6. After hearing both sides, and considering the facts and circumstances of this case, I think this bail application can be allowed. The main allegation is under the provisions of PDPP Act. The alleged damage is assessed as Rs.10,000/- (Rupees Ten Thousand only). The petitioner can be directed to deposit that amount as a condition for granting bail. Hence, this bail application is 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 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 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. The petitioner shall deposit an amount of Rs.10,000/- (Rupees Ten Thousand only) before the Jurisdictional Court within ten days from today.

6. 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

VPK