

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.1989 OF 2020

(Crime No:305/2020 of Pooyappally Police Station in
Kollam District)

Petitioner/ Accused:

Visakh P.Gopal, S/o.Gopalakrishnan,
Aged 24 Years, Poikavila Puthen Veedu,
Thulavila, Kayila Ward, Veliyam,
Kottarakkara, Kollam.

By Adv. Sri. B.Mohan Lal.

Respondents/Complainant

1. State Rep. by the Public Prosecutor, High Court of Kerala,
Ernakulam.
2. The Station House Officer, Pooyappally Police Station,
Pooyappally P.O., Kollam-691 537.

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. 1989 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. The petitioner is the sole accused in Crime No.305 of 2020 of Pooyappally Police Station. The above case is registered against the petitioner alleging offences punishable under Section 294(b), 341, 323 and 308 of the Indian Penal Code.

3. The prosecution case is that, the Revenue Divisional Officer, Kollam conducted inspection of the Akkavila Quarry at Veliyam on 29.02.2020 at about 15 hrs. The defacto complainant who is working as the helper in the Quarry, told the petitioner that, he may not cause any nuisance and in animosity with the above, the petitioner with intention to commit culpable homicide, wrongfully restrained the defacto complainant, shouted obscene words and in the

incident the defacto complainant sustained serious injuries.

4. The counsel for the petitioner submitted that the incident is not happend as alleged by the prosecution. There are a series of cases in connection with a Quarry. He also submitted that, no serious injuries sustained to the injured in this case.

5. The learned Public Prosecutor submitted that, no serious injury is sustained to the injured in this case. If this Court is granting bail, stringent conditions may be imposed.

6. After hearing both sides, considering the facts and circumstances of this case and also considering the fact that no serious injury is sustained to the injured in this case. 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 **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. 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.

Sd/-

**P.V.KUNHIKRISHNAN,
JUDGE**