

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.1999 OF 2020

(Crime No.212/2020 of Puthoor Police Station, Kollam District)

PETITIONER / ACCUSED No.2

**Sujith Suresh,**  
aged 22 years,  
S/o Suresh,  
Kodiyattu Poika Veedu,  
Puthoor,  
Kollam District.

By Adv. Sri. K.V.Anil Kumar

RESPONDENT / COMPLAINANT

State of Kerala represented by the Public Prosecutor,  
High Court of Kerala, Ernakulam.

BY PUBLIC PROSECUTOR SRI.AJITH MURALI & SRI.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.1999 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 2<sup>nd</sup> accused in Crime No.212 of 2020 of Puthoor Police Station. The above case is registered against the petitioner and another alleging offences punishable under Sections 341, 294(b), 323, 324, 427, 308 and 506 read with Section 34 of the Indian Penal Code.

3. The prosecution case is that, due to previous enmity towards the de facto complainant, accused Nos.1 and 2 in furtherance of their common object, on 20.2.2020 at about 5 pm., while the de facto complainant started his autorickshaw, the 1<sup>st</sup> accused abused him with filthy language, pulled out the de facto complainant from his autorickshaw and threatened him by showing a knife. The allegation against the 2<sup>nd</sup> accused

who is the petitioner herein is that he attacked the de facto complainant using a stick.

4. The counsel for the petitioner submitted that the offence under Section 326 IPC was there and subsequently Section 326 IPC was deleted and Section 308 IPC is added only to see that the petitioner is arrested. The learned counsel for the petitioner submitted that no offence under Section 308 of IPC is made out in this case.

5. The learned Public Prosecutor opposed the bail application and submitted that the petitioner had committed serious offence and there are specific overt acts against the petitioner.

6. After hearing both sides, I think this bail application can be allowed. The main allegation in this case is against the 1<sup>st</sup> accused. The allegation against the petitioner is that he attacked the victim with a stick. Moreover, there is a delay of three days in lodging the complaint.

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/2<sup>nd</sup> accused 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/2<sup>nd</sup> accused, 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/2<sup>nd</sup> accused 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/2<sup>nd</sup> accused 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/2<sup>nd</sup> accused, the jurisdictional Court can cancel the bail in accordance with law, even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN, JUDGE**

skj