

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

BA NO.2025 OF 2020

(Forest Crime in O.A. No. 4/2020 of Puthur Forest Station, Palakkad)

Petitioner:

Liju Mathew
S/o Mathai K.C.,
Kuthamparambil House,
Kalkandi P.O.,
Mannarkkad ,Palakkad

BY ADV.SRI.KIRAN NARAYANAN

Respondent:

State of Kerala, represented by the Public Prosecutor,
High Court of Kerala
through Forest Officer, Puthur Forest Station,
Mannarkkad,Palakkad

By P.P. Sri.Ajith Murali & Santhosh Peter(Sr)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 11.05.2020,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.2025 of 2020

Dated this the 11th 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 3rd accused in O.A.No.4 of 2020 of Puthur Forest Station, Mannarkkad. The above case is registered against the petitioner alleging offences punishable under Sections 9, 39, 50, 51 read with 2(2), 2(14), 2(16), 2(20), 2(32), 2(35), 2(36) of the Wild Life (Protection) Act, 1972.

3. The prosecution case is that on 04.03.2020 the 1st and the 2nd accused hunted two wild pigs which was included in the IIIrd schedule of the Wild Life (Protection) Act and on their confession they disclosed that the one person came in the auto of the 3rd accused

and purchased one pig from them and taken away in his autorickshaw.

4. The counsel for the petitioner submitted that he is only an autorickshaw driver. He is implicated in this case based on the statement of co-accused. He also submitted that there is no criminal antecedents against the petitioner.

5. The learned Public Prosecutor submitted that it is a fact that the petitioner herein was implicated based on the confession statement of the 1st and 2nd accused. He also submitted that there is no criminal antecedents against the petitioner.

6. After hearing both sides, I think this bail application can be granted. The Petitioner is implicated based on confession statement of co-accused. It is true that the confession statement of the co-accused to a forest official is admissible to some extent. But, the same cannot be the sole evidence to implicate a person. Moreover, in this case, admittedly the petitioner

is the autorickshaw driver. The prosecution case itself is that the 4th accused came in the autorickshaw of the 3rd accused and purchased the meat from the 1st and 2nd accused. Considering the facts and circumstances, I think the bail can be granted to the petitioner in this case.

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.

P.V.KUNHIKRISHNAN, JUDGE