

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.TMP NO.2061 OF 2020

(Crime No.616/2019 of Palakkad Town North Police Station.)

Petitioner/Petitioner/Accused No.4:

Akhilnath, aged 22 years,
S/o.Rankaswami, Pomudi House,
Cherumakode, Thattamangalam P.O,
Palakkad.

By Adv. Sri. Nireesh Mathew

Respondent/Complainant:

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

BY P.P.SRI.AJITH MURALI & 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

B.A.No.2061 of 2020

Dated this the 6th 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.616 of 2019 of Palakkad Town North Police Station registered alleging offences punishable under Section 3(1) of the Prevention of Damages to Public Property Act, 1984.

3.The prosecution case is that the petitioner and others entered into the Men's Hostel at the compound of Victoria College, Palakkad and damaged the doors and

the window panes of the Men's Hostel. It is also alleged that they caused damaged to the tune of Rs.50,000/- to the Government.

4. The counsel for the petitioner submitted that the main accused in the case is arrested and released on bail with certain conditions.

5.The learned Public Prosecutor opposed the bail application. But the learned Public Prosecutor submitted that if this court is granting bail, there may be a direction to the petitioner to deposit a portion of the amount which is assessed as the damages.

6.After hearing both sides, I think the bail can be granted in this case with certain conditions. The main accused in this case is already granted bail. Moreover, the petitioner is a student. Considering the entire facts and circumstances of this case, bail can be granted only with a condition that the petitioner will deposit a

portion of the amount calculated as damages sustained to the Government

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.

6. The petitioner will deposit an amount of Rs.25,000/- before the jurisdictional

Magistrate court within two weeks from today.

P.V.KUNHIKRISHNAN,

JUDGE

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