

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.2065 OF 2020

(Crime No.82/2020 of Koodal Police Station, Pathanamthitta District).

PETITIONER/Petitioner:

Vineeth V.Nair, aged 22 years, S/o. Vijayan P.B,  
Kizhakkedathu Kizhakethil, Kalanjoor PO,  
Pathanamthitta District

BY ADV.SRI.NIREESH MATHEW

Respondent/Complainant:

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

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.**

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B.A.No.2065 of 2020  
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Dated this the 15<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 accused in Crime No.82 of 2020 of Koodal Police Station registered alleging offences punishable under Section 363 of the Indian Penal Code (IPC) and Section 8 read with Section 7 of the Protection of Children from Sexual Offences Act, 2012.

3.The prosecution case is that, on 14.12.2019, at about 10 am, the accused abducted the victim girl aged 17 years from her lawful guardianship and committed sexual assault against her by kissing on her lip and also tattooed his name on her left breast and therefore, the accused had committed the above said offences.

4. The counsel for the petitioner submitted that, the

petitioner has not committed any offence. According to the counsel, even if the entire allegations are accepted, no offence is made out.

5.The learned Public Prosecutor submitted that, the petitioner committed the offences against a minor girl and therefore, he is opposing the bail application.

6. After considering the facts and circumstances of the case, I think this bail application can be allowed. The alleged victim in this case is aged 17 years and accused is aged 22 years. The admitted case is that, the victim went along with the accused and thereafter, the accused tattooed her name on his chest and the victim tattooed name of the petitioner on her breast. According to the counsel for the petitioner, the victim and the petitioner were on a love affair and he also submitted that the petitioner who is working at Bangalore came to Kerala to enjoy the first anniversary of their love affair. I cannot decide these facts in this bail application. Anyway, one aspect is to be noted that the alleged incident was happened on 14.12.2019 and the complaint is filed only on 04.02.2020. The

delay in filing this complaint is also a matter to be investigated by the Investigating Officer. But considering the facts and circumstances of the 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 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 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 with law, even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN, JUDGE**

YKB