

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.2129 OF 2020

(Crime No: 166/2020 of Parippally Police Station, Kollam District)

Petitioner/Accused:-

Abdul Manaf, age 56, S/o. Muhammed Musthafa,
Moola Veedu, Thadikkadu P.O., Earam, Anchal, Kollam District.

By Adv. Sri. Shajin S. Hameed.

Respondent/State:

State of Kerala, represented 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

B.A.No.2129 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. Petitioner is the accused in Crime No.166 of 2020 of Parippally Police Station. The above case is registered against the petitioner alleging offence punishable under Section 294(b), 354 and 323 of the Indian Penal Code.

3. The prosecution case is that, on 26.02.2020, while the defacto complainant was closing the gate of the property where she was working, the accused reached there in a car, uttered obscene words, caught on her chest and outraged her modesty.

4. The learned counsel for the petitioner submitted that, even if the entire allegations are accepted, no offence under Section 354 IPC is made out, which is the non bailable offence alleged in this case. He also submitted that, there is

a property dispute and that is why a false case is forged against him by the defacto complainant.

5. The learned Public Prosecutor submitted that, 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 considering the fact that, some property dispute is there and no serious injury is sustained to the victim in this case and also considering the submission of the learned Public Prosecutor, 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**

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