

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.2184 NO.OF 2020

(Crime No. 413/2019 of Kenichira Police Station, Wayanad District)

**Petitioner/Accused No.1:**

Ebin Jose, aged 38 years,  
S/o. Jose, Thannikkal,  
Veliyambam.P.O., Pulpally,  
Sulthan Bathery Taluk, Wayanad-673 579.

By Adv. Mathew Kuriakose

**Respondent/State:**

State of Kerala,  
(Crime No. 413/2019 of Kenichira Police Station),  
represented by the Public Prosecutor,  
High Court of Kerala, High Court. P.O., Ernakulam - 682 031.

**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:**

**ORDER**

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the first accused Crime No.413 of 2019 of Kenichira Police Station, Wayanad District registered alleging offences punishable under Sections 341,342,324,498A r/w Section 34 of the Indian Penal Code.

3.The prosecution case is that the petitioner and the other accused have mentally and physically harassed the de facto complainant.

4. The counsel for the petitioner submitted that no offence is committed by the petitioner as alleged. He also submitted that there is a family dispute between the petitioner and the de facto complainant. He submits that the petitioner is ready to abide any conditions imposed by this Court for granting bail.

5. The learned Public Prosecutor submitted that if the court is granting bail to the petitioner, the same may be on stringent conditions imposed on the petitioner.

6. After hearing both sides and the submission of the

learned Public Prosecutor, I think this Bail Application can be allowed especially because it is a matrimonial offence.

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**

pkk