

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.NO.2266 OF 2020

(Crime No.311/2020 of Moovattupuzha P.S.)

Petitioner/Accused-2:

Ajmal M.K., aged 31 years,  
S/O Ibrahimkutty,  
Mayyannikudiyil House,  
Pezhakkappilly P.O., Moovattupuzha  
Ernakulam. Pin- 686673

By Adv.Ajeesh M ummer

Respondent/complainants:

1. State of Kerala, Represented by the Public Prosecutor,  
High Court of Kerala, Ernakulam, Kochi-682 031.
2. The Sub Inspector of Police,  
MUVATTUPUZHA Police station,Ernakulam District.-  
Pin-683572

**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 one of the accused in Crime No.311 of 2020 of Muvattupuzha Police Station registered alleging offences punishable under Sections 143,147,148,341,294(b),506(ii),324,326 and 308 r/w. Section 34 of the Indian Penal Code.

3. The prosecution case is that on 18.02.2020 at 9.30 p.m., the petitioner along with remaining accused formed an unlawful assembly and wrongfully restrained the de facto complainant and assaulted him using a deadly weapon with intention to kill him and thereby it is alleged that the petitioner had committed the above mentioned offences.

4. The learned counsel for the petitioner submitted that there is no specific overt act against the petitioner herein. He read out the F.I. Statement through video conference. After hearing the version of the de facto complainant in this case,

I think that no specific overt act is alleged against the petitioner. Moreover, the only allegation against the petitioner is that he instigated the other accused to commit the offence.

5. The learned Public Prosecutor opposed the Bail Application.

6. I have already considered the Bail Application of the 4<sup>th</sup> accused in connection with this case in B.A. No.165 of 2020 and the said bail application has already been allowed. In the light of the above fact, this Bail Application is also 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 not enter the jurisdictional limit of Muvattupuzha Police Station till final report in Crime No.311 of 2020 is filed except for the appearance before the Court and before the Investigating Officer.

5. 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.

6. 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**