

**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.2318 OF 2020**

(Crime No.68/2020 of Mangalam Dam Police Station, Palakkad District)

**Petitioner/Accused:**

Ashik, aged 26 years, S/o.Abdulrahman,  
Chennali, Pandamcode, Mulangot.P.O,  
Palakkad District, Pin-678684.

ADV.SRI. K.K.JAYARAJ NAMBIAR

**Respondent**-State &Complainant

1. State of Kerala, represented by the Public Prosecutor,  
High Court of Kerala, Ernakulam, Kochi-682031.
2. Station House Officer,  
Mangalam Dam Police Station,  
Palakkad District,  
Pin-678706.

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**

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B.A.No.2318 of 2020  
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Dated this the 6<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.68 of 2020 of Mangalam Dam Police Station, Palakkad registered alleging offences punishable under Sections 354, 506, 294(b) and 324 IPC.

3.The prosecution case is that on 17.3.2020 at 4 pm, the petitioner abused, inflicted injury, intimidated and outraged the modesty of the defacto complainant.

4. The counsel for the petitioner submitted that the petitioner and the injured are relatives. They are residing under the same roof. The petitioner was employed at Sharja. There was some domestic problem inside the house, which resulted in the incident. He is ready to comply any conditions imposed by this Court.

5. The learned Public Prosecutor submitted that even though the offences includes non-bailable offences, if this Court

grant bail, stringent conditions may be imposed.

6. Considering the facts and circumstances of this case and especially in the light of the fact that the petitioner and the victim are relatives and they were residing under the same roof and the incident happened due to the domestic problem inside the house, I think that the 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.

**P.V.KUNHIKRISHNAN**  
**JUDGE**

**ab**