

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 13TH DAY OF MAY 2020 / 23RD VAISAKHA, 1942

BA NO.2409 OF 2020

(Crime No.55/2020 of Malampuzha Police Station, Palakkad District)

Petitioner/Second Accused:-

Dinesh, S/o. Narayanan, aged 30 years, Pallikandath House, Kallepully, Palakkad District.

By Advs. Sri. Jacob Sebastian
Sri. K.V.Winston
Sri. Anu Jacob

Respondents/ State & Complainant:-

1. State of Kerala, rep. by Public Prosecutor, High Court of Kerala, Ernakulam-682 031.
2. The Sub Inspector of Police, Malampuzha Police Station, Malampuzha Dam P.O, Palakkad District-678 651.

By P.P. Sri.B.Jayasurya (Sr) & Sri. C.K.Prasad

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 13.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A.No.2409 of 2020

Dated this the 13th 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 2nd accused in Crime No.55 of 2020 of Malampuzha Police Station registered alleging offences punishable under Section 3(1) of the Prevention of Damage to Public Property Act read with Section 34 of the Indian Penal Code.

3.The prosecution case is that while the Kalleppulli Kummatti (a local temple festival) was going on, two identifiable persons pelted stones upon the police jeep as a result of which the side quarter glass of the jeep was broken causing a monetary loss of Rs.2,000/-.

4. The counsel for the petitioner submitted that the petitioner has not committed any offence. Moreover, he

submitted that he is ready to comply any condition, if this court granting bail to him.

5.The learned Public Prosecutor submitted that the damage caused to the public property is Rs.2,000/-. If this court is allowing the bail application, a condition may be imposed to the petitioner to deposit the said amount.

6.After considering the facts and circumstances of the case, I think this bail application can be allowed. According to the prosecution, the quarter glass of the police jeep was broken causing a monetary loss of Rs.2,000/-. In the light of the facts and circumstances of the case, I think custodial interrogation may not be necessary. Hence, 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.

6. The petitioner will deposit an amount of Rs.2,000/- before the jurisdictional Magistrate within 10 days from the date on

which the regular sitting is started in the court concerned.

P.V.KUNHIKRISHNAN, JUDGE

YKB