

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 11TH DAY OF MAY 2020 / 21ST VAISAKHA, 1942

BA NO.2645 OF 2020

**(Crime No. 562/2020 on the file of Thodupuzha Police Station, Idukki district)**

**Petitioner/ Accused:**

Jose John, aged 34 years, S/o. K.J. John,  
The Manager,  
Sicilia Hotels Pvt Ltd.,  
Near old KSRTC Bus Stand Junction,  
Idukki road, Thodupuzha, Idukki district  
Residing at Bethel Cottage, Ammakandakara,  
Peringadu, Adoor P.O, Pathanamthitta District – 691 523

**By Adv. Sri. Anoop.V.Nair**

**Respondents/Complainants :**

1. State of Kerala, represented by  
the Public Prosecutor  
High Court of Kerala – 682 031

2. The Sub Inspector of Police  
Thodupuzha Police Station  
Idukki District – 685 584

By P.P. Sri.Ajith Murali & Santhosh Peter(Sr)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 11.05.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.No.2645 of 2020  
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Dated this the 11<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 1<sup>st</sup> accused in Crime No.562 of 2020 of Thodupuzha Police Station registered alleging offences punishable under Sections 188 & 271 of IPC, Sections 55(i) and 56(b) of the Abkari Act, Section 118 (e) of Kerala Police Act, 2011, Sections 5, 4(2)(a) of the Kerala Epidemic Diseases Ordinance, 2020 and Section 51(b) of Disaster Management Act, 2005.

3.The prosecution case is that the petitioner is the

Manager of Sicilia Hotels Pvt Ltd, which is having an FL-3 license to run a Bar Hotel. Two bottles of Indian made foreign liquor was seized from an officer of the Pollution Control Board. That person confessed that this Indian made foreign liquor is purchased from the petitioner herein.

4. The counsel for the petitioner submitted that even if the entire prosecution case is accepted, no offence under Section 55(i) is attracted and the other offence is compoundable. The counsel for the petitioner also submitted that there is no connection between the petitioner and the 2<sup>nd</sup> accused. There is no criminal antecedents against the petitioner.

5.The learned Public Prosecutor submitted that if this court granting bail, stringent conditions may be imposed.

6.After hearing both sides, and considering the

quantity of Indian made foreign liquor involved in this case and also considering the fact that the same is not seized from the petitioner and further also considering the fact that the petitioner was implicated based on the statement of the other accused, 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.

**P.V.KUNHIKRISHNAN, JUDGE**

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