

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.2646 OF 2020

(Crime no. 170/2020 of Kattoor police Station, Thrissur District)

APPLICANTS/ ACCUSED PERSONS (Rank Not Known):-

1. Pranav, aged 20 years, S/o Pragildas, Thaikkalaparambil house, Karukulangara, Irinjalakuda P O, Thrissur District.
2. Muhammed Sahal, aged 25 years, S/o of Salim, Korattiparambil house Valakkazha Road, Kattoor P O, Thrissur District.

BY ADV.SRI.JITHIN BABU A

RESPONDENT/COMPLAINANT:-

1. Station House Officer, Kattoor Police Station, Thrissur, PIN- 680 702
2. State of Kerala, represented by the Public Prosecutor, High Court of Kerala, Ernakulam, PIN- 682 031.

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

B.A.No.2646 of 2020

Dated this the 11th 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. Petitioners are the 2nd and 1st accused in Crime No.170 of 2020 of Kattoor Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 341, 323, 308, 294(b), 506 read with 34 of IPC.

3. The prosecution case is that the defacto complainant was wrongfully restrained and attacked. Further case of the prosecution is that filthy language is used by the accused.

4. The counsel for the petitioners submitted that

name of the petitioners are not mentioned in the FIR. He also submitted that no serious injury is sustained to the injured. The learned counsel for the petitioners submitted that they are ready to abide any conditions, if this Court grant bail to the petitioners.

5. The learned Public Prosecutor submitted that the first petitioner who is the 2nd accused is involved in another case and he opposed the bail application.

6. After hearing both sides, I think this bail application can be allowed. The name of the petitioners are not mentioned in the FIR. No serious injuries sustained to the victim. It is true that the 2nd accused is involved in another case. Considering the facts and circumstances of this case, I think the petitioners can be released on bail.

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 petitioners 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 petitioners, they 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 petitioners shall appear before the Investigating Officer as and when required. The petitioners shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. The petitioners 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 petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

P.V.KUNHIKRISHNAN, JUDGE

VPK