

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.2670 OF 2020

(Crime No.461/2020 of Vadakkancherry Police Station, Palakkad District).

Applicants/Accused Nos.1 and 2.

1. Sasi, aged 27 years,
S/o.Late.Raju,
Kizhakkepalayam, Vadakkencherry,
Alathur, Palakkad.
2. Santhosh, aged 35 years,
S/o. Late.Raju,
Kizhakkepalayam, Vadakkencherry,
Alathur, Palakkad.

BY ADV.V.A.JOHNSON(VARIKKAPPALLIL)

Respondent/Complainant:

1. State of Kerala, represented by
Public Prosecutor, High Court of
Kerala, Ernakulum-682031.
2. The Sub Inspector of Police,
Vadakkencherry Police Station,
Alathur, Palakkad-678683.

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.2670 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. Petitioners are the accused Nos.1 and 2 in Crime No.461 of 2020 of Vadakkencherry Police Station, Palakkad District. The above case is registered against the petitioners alleging offences punishable under Sections 447, 323, 324, 294(b) and 308 r/w 34 of IPC.

3. The prosecution case is that on 26.4.2020 at about 2.00 pm, the accused sharing the common intention, committed criminal trespass and attacked the defacto complainant with roof tiles when she questioned the accused for letting rain water to her property from the rooftop of the house of the accused.

4. The learned counsel for the petitioners submitted that, there

is a dispute between the family of the petitioners and the family of the injured. He submitted that the injured sustained only minor injuries. He also submitted that the petitioners are ready to abide by any condition, if this Court is granting bail to them.

5. The learned Public Prosecutor submitted that there is some dispute between the family of the petitioners and the family of the injured. Consequently, this incident happened. The learned Public Prosecutor submitted that there is no criminal antecedents reported against these petitioners and if this Court is granting bail to these petitioners, stringent conditions may be imposed.

6. Considering the facts and circumstances of the case, I think that this bail application can be allowed. There is some dispute between the family of the petitioners and the family of the injured. According to the learned Public Prosecutor, complaints are pending before the authorities. Moreover, no serious injuries are sustained to the injured. In the light of the facts and circumstances of the case and in the light of the fact that no criminal antecedents are there against the petitioners, 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 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) each 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. The petitioners shall not enter the jurisdiction limit of Vadakkencherry Police Station till the final report is submitted in Crime No.461/2020.

6. 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**

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