

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.2673 OF 2020

(Crime No.182 /2020 of Chavakkad Police Station, Thrissur District)

Petitioner/ Accused

1. Naseer P.C, S/o Abdul Kareem, Aged 32 years, Panikkaveettil Chalil House, Edakkazhiyoor (P.O), Chavakkad, Thrissur – 680 515
2. Ansar P.C, S/o Aboobacker, Aged 28 years, Panikkaveettil Chalil House, Edakkazhiyoor (P.O), Chavakkad, Thrissur – 680 515

BY ADV.SRI.SAIJO HASSAN

Respondent/State:-

1. State of Kerala, represented by the Public Prosecutor, High Court of Kerala, Ernakulam-31.
2. The Sub Inspector of Police, Chavakkad Police Station, Thrissur District

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.2673 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 1st and 3rd accused in Crime No.182 of 2020 of Chavakkad Police Station, Thrissur District registered alleging offences punishable under Sections 452, 323, 324 and 308 r/w 34 of IPC.

3. The prosecution case is that on 21.3.2020 at 00.30 hours the accused persons shattered the window panes of the defacto complainant's house on account of personal animosity and the 1st petitioner attacked the defacto complainant's head with a sword and when the defacto complainant stopped with his right hand, he sustained injuries. It is also alleged that, the 2nd petitioner also attacked the defacto complainant's mother with his hands.

4. The counsel for the petitioners submitted that, the 2nd

accused in this case is already granted bail by this Court as per order dated 11.5.2020 in B.A.No.2661/2020. The learned counsel for the petitioners submitted that the petitioners are ready to abide by any condition, if this Court is granting bail.

5. The learned Public Prosecutor eventhough opposed the bail application, conceded that if the other accused is granted anticipatory bail, stringent conditions may be imposed while granting bail to these petitioners also.

6. After hearing both sides and considering the facts and circumstances of the case and also considering the fact that the 2nd accused is already released on bail as per order dated 11.5.2020 in B.A.No.2661/2020, I think this bail application can also 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. 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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