

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.2681 OF 2020

(Crime No.328 /2019 of Peringome Police Station, Kannur District)

Petitioners/Accused

1. Ajesh K., aged 38 years, S/o.Krishnan Puthiyapurayil House, Eramam amsom Perool, Kizhakkekkara, Kannur District.
2. Pavithran P.P., aged 32 years, S/o.Narayanan Puthiyapurayil House, Eramam amsom Perool, Kizhakkekkara, Kannur District.
3. Sreenesh P., aged 36 years, S/o.Vasu Pidachi House, Eramam amsom Perool, Kizhakkekkara, Kannur Distrit.

BY ADV.SRI.M.SASINDRAN

Respondents/State/Complainant:

1. State of Kerala – represented by Public Prosecutor High Court of Kerala,  
Ernakulam – 682 031.
2. The Station House Officer Peringome Police Station,  
Kannur District – 670 001

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**

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B.A.No.2681 of 2020  
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Dated this the 13<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. Petitioners are the accused in Crime No.328 of 2019 of Peringome Police Station registered alleging offences punishable under Sections 323, 451 and 306 read with 34 of Indian Penal Code.

3. The prosecution case is that one Shaji committed suicide on 27.9.2019. Crime No.328 of 2019 was registered, under Section 174 of Cr.P.C based on the statement of the 1<sup>st</sup> petitioner. Annexure A1 is the

First Information Reprot. Thereafter, the offences under Section 323, 451 and 306 read with 34 of IPC are included and the petitioners herein were arrayed as accused No.1 to 3. Annexure A2 is the report submitted before the court. In Annexure A2, it is stated that the deceased committed suicide because of the instigation of the petitioners. It is also stated that the petitioners and others assaulted the deceased on an earlier occasion and because of that the deceased committed suicide.

4. The counsel for the petitioners submitted that even if the entire allegations are accepted, no offences under Section 306 of IPC is made out. The petitioners are ready to abide any conditions if this court grant bail to them.

5. The learned Public Prosecutor opposed the bail application and submitted that the petitioners

committed the offences under Section 306 of IPC.

6. After hearing both sides, I think this bail application can be allowed. The admitted prosecution case is that the petitioners trespassed into the house of the deceased on the previous day of his death and attacked him. Because of that, the deceased committed suicide. This is the prosecution case. I am not in a position to accept that, based on this allegation, an offence under Section 306 of IPC will attract at this stage. Of course, this is a matter to be investigated by the Investigating Officer. I make this observation only for the purpose of considering this bail application. The Investigating Officer is free to investigate the matter in detail and find out, whether there any offence is made out. From 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**