

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.2686 OF 2020

( CRIME NO. 657/2020 OF MATHILAKAM POLICE STATION IN THRISSUR  
DISTRICT )

PETITIONERS / ACCUSED:-

1. SHIBI, AGED 34 YEARS,  
S/O HAMSA, THAIVALAPPIL HOUSE,  
MATHILMOOLA DESOM,  
PAPPINIVATTOM VILLAGE, MATHILAKAM.P.O.,  
KODUNGALLUR TALUK, THRISSUR DISTRICT. PIN-680685

2. ANESHA, AGED 29 YEARS,  
W/O SHIBI, THAIVALAPPIL HOUSE,  
MATHILMOOLA DESOM,  
PAPPINIVATTOM VILLAGE,  
MATHILAKAM.P.O., KODUNGALLUR TALUK,  
THRISSUR DISTRICT. PIN-680685

BY ADV. P.M.ABDUL JALEEL (A-655)  
K.J.JOBY (K/80/2008)  
A.G.VISWAMBHARAN (V-761) &  
HASHIM.V.H. (K/001195/2018)

RESPONDENTS / DEFACTO COMPLAINANT :-

1. STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR ,  
HIGH COURT OF KERALA , ERNAKULAM, COCHIN,  
PIN- 682031.

2. STATION HOUSE OFFICER,  
MATHILAKAM POLICE STATION  
REPRESENTED BY PUBLIC PROSECUTOR ,  
HIGH COURT OF KERALA , ERNAKULAM, COCHIN,  
PIN- 682031.

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.2686 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 accused in Crime No. 657 of 2020 of Mathilakam Police Station. The above case is registered against the petitioners alleging offences punishable under Sections 341, 324, 294(b), 506(ii), 452 and 308 read with Section 34 IPC.

3.The prosecution case is that on 27.04.2020, at about 8.10 p.m., the petitioners trespassed into the house of the defacto complainant, uttered obscene words and attacked the defacto complainant using an iron rod.

4. The counsel for the petitioners submitted that, it is a case, where there is a case and a counter case. The

incident is not happened as alleged by the prosecution. Moreover, the counsel for the petitioners also submitted that no serious injury is sustained to the injured in this case.

5.The learned Public Prosecutor submitted that, no serious injury is sustained to the injured and there is a case and a counter case. The Public Prosecutor has also submitted that, if this Court is granting bail, stringent conditions may be imposed.

6.After hearing both sides, it is clear that a case and a counter case is registered. About the same incident, there are two versions. Which version is correct, is to be decided after investigation and during the trial of the case. At this stage, this Bail Application can be allowed, in the light of the fact that no serious injury is sustained to the injured and also based on the submission of the Public Prosecutor.

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 on 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 cooperate 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 with law, even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN, JUDGE**

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