

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.2690 OF 2020

(CRIME NO. 134/2020 of POOCHACKAL POLICE STATION, ALAPPUZHA DISTRICT)

Petitioner/3RD Accused:

Azharudheen Manaf, Aged 30 years,
S/o late Abbaz, residing at Karavelil House,
Poochakkal P.O, Alappuzha District.

By Advocates T.C. Suresh Menon & P.S. Appu.

Respondents/Complainant:

1. State of Kerala, Represented by the Public Prosecutor,
High Court of Kerala, Ernakulam, Kochi-680 031.
2. The Sub Inspector of Police,
Poochackal Police Station,
Alappuzha District. 688 526.

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. 2690 of 2020

Dated this the 13th day of May, 2020

ORDER

The petitioner is the 3rd accused in Crime No.134/2020 of Poochakkal Police Station, Alappuzha. The above case is registered against the petitioners alleging offences punishable under Sections 308 of the Indian Penal Code, 185 and 188 of the Motor Vehicles Act.

2. The prosecution allegation is that, after consuming liquor, accused 1 and 2 driven the car bearing Reg.No. KL-32-D-8268 in a very negligent manner and it hit on a motor cycle and thereafter against school children and it was stopped after hitting a standing tree on the side of the road. The prosecution case is that the petitioner is the RC owner of the vehicle and hence he is arrayed as 3rd accused.

3. The learned counsel for the petitioner submitted

that the petitioner is the registered owner of the vehicle. Subsequently, as per Anx.A2 sale agreement, the vehicle was sold to the 2nd accused on 04.03.2020. But the registration was not transferred. He is submitted that he is the former member of a Grama Panchayath and he has not committed any offence.

4. The learned Public Prosecutor submitted that, the petitioner is the RC owner of the vehicle. The learned Public Prosecutor submitted that, bail can be granted on stringent conditions.

5. After hearing both sides and considering the facts and circumstances of the case, this bail application can be allowed. It is to be noted that the petitioner is implicated in this case as the RC owner of the vehicle. Now the petitioner submitted that he transferred the vehicle as per Anx.A2. The validity of Anx.A2 cannot be decided now in this bail application. That is a matter to be investigated by the Investigating Officer. But in the light of the facts and circumstances of the case, and based on the submission of the

learned Public Prosecutor, I think this bail application can be allowed.

6. 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.

7. 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.

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

4. The petitioner 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.

Sd/-

**P.V.KUNHIKRISHNAN,
JUDGE**

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