

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.2691 OF 2020

(In Crime No. 59/2020 of Thalappuzha Police Station, Wayanad District)

**Petitioner/Accused no: 1 to 15**

1. Nikhil.K., S/o. Sureesh.K.,Aged 20 years,  
Karuparambil House,  
K.Puram, P.O, Malappuram-676 307.
2. Adarsh.N.,S/o.Pradeepkumar.N.,  
Naduvilattu House, Vengeri.P.O.,  
Kozhikode – 673 010.
3. Hashim Irshad.A., S/o.Ashraf.A.,  
Payyarikandy House, Ommassery,  
Kozhikode – 673 582.
4. Akshaykumar.K.S.,S/o.Sasikumar.K.K,  
Aged 19 years, Kalladathil House, Puthur.P.O.,  
Thrissur – 680 014.
5. Ajmal.C.K.,S/o.Ahammed Koya.C.K., Aged 21 years,  
Nedungotiriparamba, Nagathumpada,  
Olavanna.P.O., Kozhikode – 673 019.
6. Sabique.M.,S/o.Muhammed Shareef.M.,  
Mattath House, Al-Ameen Nagar, Nannambra,  
Kodinhi.P.O. – 676 309.
7. Lijin.J.V., S/o.Jayan.C.,Sopanam (H),  
Anoop Venue, Vellannad.P.O.,  
Thiruvananthapuram – 695 543.
8. Abhiram.K.,S/o.Surrendran.K., Aged 19 years,  
Kuhzhipalli House, Cheruvayoor.P.O.,  
Vazhakkad, Malappuram District – 673 645.

9. Anoop.M.P., S/o.Ravindran.M.P.,  
Puthanmadathil House, Punnappala.P.O.,  
Wandoor,Malappuram – 679 328.
- 10.Neeraj.R., S/o.Radhakrishnan,  
Manikrishna House, Kollam.P.O.,Quilandy.
11. Favas, S/o.Aboobacker, Kunnathody House,  
Manjeri.P.O.
12. Ajmal Roshan, S/o.Noushan,Chundayil House,  
Malappuram.
13. Jaseem Ismayil. T., S/o. Abdul Majeed.T.,  
Tharavattath House, Nochad.P.O., Kozhikode.
14. Nithin. A., S/o. Anilkumar, Thalayil House,  
Pullanpara P.O., Thiruvananthapuram – 695 607.
15. Nabeel, S/o.Muhammed Ali, Mangalasery House,  
Kuttikodi, Vazhakkad.P.O.

BY ADV.SRI.P.E.SAJAL

**Respondent/Complainant**

1. State of Kerala, represented by the Public Prosecutor High  
Court of Kerala. 682031.
2. The Sub Inspector of Police, Thalapuzha Police Station,  
Wayanad District.670644

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. 2691 of 2020**  
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**Dated this the 13<sup>th</sup> day of May, 2020**

**ORDER**

The petitioners are accused Nos.1 to 15 in Crime No.59/2020 of Thalappuzha Police Station, Alappuzha. The above case is registered against the petitioners alleging offences punishable under Sections 143, 147, 148, 341, 323, 324, 326, 308, 506 r/w Section 149 of the Indian Penal Code.

2. The prosecution case is that, on 05.03.2020 at about 5.30 p.m., there was a clash between two groups of students at the Government Engineering College campus. The further case is that the petitioners and the other accused were the members of an unlawful assembly and attacked the defacto complainant.

3. The learned counsel for the petitioner submitted that, this is a case and counter case and the other case is

registered as Crime No.58/20 and this Court granted bail to the accused in that case as per order dated 05.05.2020 in B.A.No. Temporary 189/20.

4. The learned Public Prosecutor submitted that, it is a case and counter case and the accused in one case has already released on bail by this Court.

5. After hearing both sides and considering the facts and circumstances of the case, especially the fact that, it is a case and counter case and also considering the fact that accused in the other case is already released on bail by this Court in B.A.No.189/20, 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 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 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 to law, even though the bail is granted by this Court.

Sd/-

**P.V.KUNHIKRISHNAN,  
JUDGE**