

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.2695 OF 2020

(Crime No.198/2020 of Kollam West Police Station, Kollam District)

**Petitioner/Accused**

Giri.T, aged 50 years, S/o.Thankappan, Moolankara Thekkethil,  
Kannimel Cherry, Kavanad P.O, Kollam District, Pin: 691003

By Adv. Sri.Siju Kamalasanan

**Respondents/State:**

1. State of Kerala represented by the Public Prosecutor,  
High Court of Kerala, Ernakulam – 31.
2. The Station House Officer, Kollam West Police Station,  
Kollam District - 691001

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.2695 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. Petitioner is the accused in Crime No.198 of 2020 of Kollam West Police Station registered alleging offences punishable under Sections 294(b), 341, 323, 324 and 326 of the Indian Penal Code (IPC). Originally Section 326 of the IPC was not there and subsequently, Section 326 of the IPC is added.

3.The prosecution case is that on 25.02.2020, the petitioner hit his motorbike on the victim by driving in a rash and negligent manner. Thereafter, there was a quarrel between the petitioner and the victim, in which the de facto complainant sustained serious injuries on his right eye.

4. The counsel for the petitioner submitted that, it is an

incident happened in a spur of the moment. Immediately after an accident a quarrel was happened in which both sides sustained injury. There is no intention or motive, even if the prosecution case is accepted.

5.The learned Public Prosecutor submitted that, the injuries sustained is serious. The Public Prosecutor submitted that, if this court is granting bail, stringent conditions may be imposed.

6.After hearing both sides, I think this bail application can be allowed. The incident happened in a public road. There is no motive. The incident happened because of an accident happened by which the petitioner hit his vehicle against the injured. There was a quarrel in which the petitioner and the injured sustained the injuries. The petitioner has got a version that the incident was not happened as alleged by the victim. But the victim has got a separate version. I am not in a position to decide, which version is correct. But, considering facts and circumstances of the case, I think this bail application can 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 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, he 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 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 petitioner, the jurisdictional Court can cancel the bail in accordance with law, even though the bail is granted by this Court.

6. The petitioner will deposit an amount of Rs.2,000/- before the jurisdictional Magistrate within 10 days from the date on which the regular sitting is started in the court concerned.

7. The petitioner shall appear before the Kollam West Police Station on every Monday and Friday at 10 am till the final report is submitted in the crime 198 of 2020 of Kollam West Police Station.

**P.V.KUNHIKRISHNAN, JUDGE**