

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

FRIDAY, THE 15TH DAY OF MAY 2020 / 25TH VAISAKHA, 1942

BA NO.2701 OF 2020

(Crime no. 231/2020 of Mankara Police Station, Palakkad District)

APPLICANTS/ ACCUSED 3 to 5:-

1. ABDUL HAKEEM, Aged 29 years.  
S/O ABDUL KHADER  
KOTTAKUNNU (H). MANNUR WEST, OTTAPPALAM  
PALAKKAD- 678642.
2. SHABEER ALI, Aged 27 years.  
S/O ABDUL KHADER  
KOTTAKUNNU (H) MANNUR WEST, OTTAPPALAM  
PALAKKAD- 678642.
3. FAISAL, Aged 24years.  
S/O SHAHUL HAMEED  
KARAPPARAMBU (H) MANNUR WEST, OTTAPPALAM  
PALAKKAD- 678642

By Adv S K Adhithyan

RESPONDENT/COMPLAINANT:-

1. STATION HOUSE OFFICER,  
MANKARA POLICE STATION, PALAKKAD, PIN- 679642
2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, PIN- 682031

By P.P. Sri.B.JAYASURYA (SR) & C.K.PRASAD

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 15.05.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.No.2701 of 2020  
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Dated this the 15<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 3 to 5 in Crime No.231 of 2020 of Mankara Police Station, Palakkad District registered alleging offences punishable under Sections 143, 147, 148, 447, 323, 324, 325, 354, 308 read with 149 of IPC.

3. The prosecution case is that on 15.04.2020 at 7.30 pm the accused herein and the other accused tried to hit the defacto complainant with an iron rod causing injury to the defacto complainant and thereby causing grievous injury to the defacto complainant.

4. The counsel for the petitioners submitted that the petitioners are only accused no 3 to 5. They have no role in the alleged incident. The main allegation is against 1<sup>st</sup> and 2<sup>nd</sup> accused. Moreover, the counsel for the petitioner also submitted that, only minor injuries sustained to the injured. The Public Prosecutor submitted that, it is a fact that only minor injury is sustained to the injured. But the offence under Section 308 of IPC is also there. The learned Public Prosecutor also submitted that if this court is granting bail to the petitioner stringent conditions may be imposed

6. After hearing both sides, I think this bail application can be allowed. The grievous offence alleged against the petitioners is under Section 308 of IPC. Admittedly, only minor injury is sustained to the injured. Moreover, the petitioners are only 3 to 5 in this case. In the facts and circumstances of this 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 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**

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