

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 12TH DAY OF MAY 2020 / 22ND VAISAKHA, 1942

BA NO. 2712 OF 2020

(Crime No 303/2020 of Pandalam Police Station)

Petitioner / Accused No 7:

Unnikrishnan.K,aged 23Years ,  
S/o Ambily  
Kurumpolil House,  
Erezha North,  
Kannamangalam Village,  
Chettikulangara P O  
Mavelikkara, Alappuzha 690106

Adv M R Sarin Panicker

RESPONDENTS:

- 1 State of Kerala,  
Represented by the Public Prosecutor,  
High Court of Kerala,Ernakulam.  
Pin 682031.
- 2 The Sub Inspector of Police  
Pandalam Police Station  
Pathanamthitta - 689645

By P.P. Sri.Ajith Murali & Santhosh Peter(Sr)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 12.05.2020,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J**

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B.A.No.2712 of 2020  
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Dated this the 12<sup>th</sup> day of May, 2020

**O R D E R**

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. Petitioner is the accused in Crime No.303 of 2020 of Pandalam Police Station registered alleging offences punishable under Sections 147, 148, 294(b), 323, 324, 308, 427 read with 149 of IPC. Petitioner was arrested on 23.3.2020 and he is in custody.

3.The prosecution case is that on 12.3.2020 at about 8.15pm accused persons reached in front of a shop in a car bearing No.KL 27 J 6172. It is further stated that the 1<sup>st</sup> accused started showering filthy languages, while hearing this the defacto complainant

questioned the same. In its anger the accused persons nos 2 to 6 manhandled the defacto complainant and the defacto complainant sustained injury. The petitioner is the 7<sup>th</sup> accused in the above case.

4. The counsel for the petitioner submitted that the petitioner is in custody from 23.3.2020. He also submitted that his name is not mentioned in the First Information Statement. He also submitted that he is the Driver of the Car and he has no involvement in the case.

5. The learned Public Prosecutor submitted that the petitioner is in custody from 23.3.2020. The learned Public Prosecutor submitted that if this court grant bail to the petitioner stringent conditions may be imposed.

6. After considering the contentions of the petitioner and the learned Public Prosecutor, I think this bail application can be allowed. It is an admitted fact that the

name of the petitioner is not mentioned in the First Information Report. It is also an admitted fact that, no serious injuries sustained to the injured. It is also to be stated that, the petitioner is the 7<sup>th</sup> accused and he has no serious involvement in the case. Considering the contentions of the petitioner and also considering the submissions of the learned Public Prosecutor this bail application is 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 Superintendent of Jail concerned where the petitioner is incarcerated is directed to release the petitioner on bail on executing a self bond ensuring that he will appear before

the Court concerned as and when required, if he is not in detention in any other case. It is further directed that the Superintendent of Jail should get the bail bond from the petitioner as stipulated in Section 441 Cr.P.C.

2. The Superintendent of Jail concerned shall also get the phone number and the address at which the petitioner would be residing after his release.

3. The Superintendent of Jail concerned, immediately after release of the petitioner will forthwith forward the bail bond obtained from the petitioner to the jurisdictional Court.

4. The petitioner immediately after release from the prison, report before the Station House Officer of the Jurisdictional Police Station and shall furnish his phone

number and the place where he is going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioner and shall ensure that the petitioner does not violate the terms of the undertaking.

5. 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.

6. The petitioner shall within one week from the commencement of the functioning of the jurisdictional court, if the court is not functioning at present, execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to

the satisfaction of the jurisdictional Court.

7. The petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing and other directions in the wake of declared lock-down.

8. 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.

**P.V.KUNHIKRISHNAN, JUDGE**