

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.2724 OF 2020

(OR NO 02/2020 OF PERUVANNAMUZHY FOREST STATION, KOZHIKODE)

PETITIONERS/ACCUSED NO 2 & 3 :-

1. ANOOP, S/O NARAYANAN, THARAVATTAMPARIL HOUSE,
MUTHUKAD (ACCUSED NO 2), PARUTHIPPARA,
PERUVANNAMIZHI.

2. SUBIN, S/O VASU, PARUTHIPPARA, PERUVANNAMUZHY

BY ADV.NIDHI BALACHANDRAN

RESPONDENTS :-

1. STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-
682031.

2. THE RANGE OFFICER, PERUVANNAMUZHI FOREST RANGE,
KOZHIKODE-673 526.

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:

B.A.Nos 2724 and 2479 of 2020

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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.2479 OF 2020

(OR NO 02/2020 OF PERUVANNAMUZHY FOREST STATION, KOZHIKODE)

PETITIONER/ACCUSED NO 4 :-

VASU AGED 68/2020, S/O PARAMESHWARAN, PARUTHIPPARA,
PERUVANNAMUZHY-673528.

RESPONDENTS:-

1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031.
2. THE RANGE OFFICER, PERUVANNAMUZHI FOREST RANGE, KOZHIKODE-673 526.

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

B.A.Nos 2724 and 2479 of 2020

Dated this the 12th day of May, 2020

O R D E R

These Bail Applications filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. Petitioners in B.A.No.2724 of 2020 are accused Nos 2 and 3 and petitioner in B.A.No.2479 of 2020 is the 4th accused in O.R.No.02/2020 of Peruvannamuzhy Forest Station, registered alleging offences punishable under Sections 2(16), 2(20), 2(31) (b), 39, 49 A(b), 49B, 50, 51 of the Wildlife Protection Act, 1972.

3.The prosecution case is that accused Nos. 1 to 3 killed a pea fowl (Pavo Cristatus) and collected feathers and hunted Sambar (Cervus Unicolor) and Wild Pig (Suscrofa) for the purpose of consumption of their meat.

The petitioners in B.A.No.2724 of 2020 surrendered before the Investigating Officer on 27.04.2020 and the petitioner in B.A.No.2479 of 2020 was arrested on 19.04.2020.

4. The counsel for the petitioners submitted that, this Court granted anticipatory bail to 1st and 5th accused in the above case as per order dated 11.05.2020 in B.A.No.2654 of 2020. The counsel for the petitioners submitted that they are in custody from 27.04.2020 and 19.04.2020 respectively.

5.The learned Public Prosecutor submitted that, it is the fact that the accused Nos. 1 and 5 are released on bail. The Public Prosecutor submitted that, on stringent conditions, bail can be granted in this case.

6.After hearing both sides and considering the fact that accused Nos.1 and 5 are already released on bail under Section 438 Cr.P.C and considering the submission of the Public Prosecutor, 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, these Bail Applications are allowed with the following directions:

1. The Superintendent of Jail concerned where the petitioners are incarcerated is directed to release the petitioners on bail on executing a self bond ensuring that they will appear before the Court concerned as and when required, if they are not in detention in any other case. It is further directed that the Superintendent of Jail should get the bail bond from the petitioners 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

petitioners would be residing after his/their release.

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

4. The petitioners immediately after release from the prison, report before the Station House Officer of the Jurisdictional Police Station and shall furnish their phone number and the place where they are going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioners and shall ensure that the petitioners does not violate the terms of the undertaking.

5. 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.

6. The petitioners 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 petitioners 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 petitioners, the jurisdictional Court can cancel the bail in accordance with law, even though the bail is granted by this Court.

P.V.KUNHIKRISHNAN, JUDGE

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