

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.2727 OF 2020

(In Crime No: I063/2018 of ThriSsur Town East Police Station  
.Thrissur District)

Petitioner/Accused No 5

Sarath,aged 24 years,  
S/o Narayanankutty,Puthenmuri House,  
Fashion Colony,Nedupuzha,  
Thrissur District,68000I

By Adv B.H.Mansoor.

Respondents: Complainant /State .

**1.**State of Kerala  
Rep by:Public Prosecutor,  
High Court of Kerala  
Ernakulam.68203I

**2.**Station House Officer.  
Thrissur East Police Station.  
Thrissur District.68000I

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.2727 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 5<sup>th</sup> accused in Crime No.1063/2018 of Thrissur East Police Station registered alleging offences punishable under Section 395 of Indian Penal Code.

3. The prosecution case is that on 17.12.2018 at about 1.30 am, the accused wrongfully restrained the defacto complainant's friend, committed extortion by putting a knife on the neck and robbed an amount of Rs.20,500/- from his pocket.

4. The counsel for the petitioner submitted that, eventhough he was released on bail originally, a false case is subsequently registered against him. Hence the prosecution filed an application to cancel the bail and accordingly bail was

cancelled and he was re-arrested on 10.3.2020. According to the petitioner, he is in custody from 10.3.2020 onwards. The learned counsel for the petitioner also submitted that, he is ready to abide by any condition, if this Court is granting bail to the petitioner

5. The learned Public Prosecutor opposed the bail application. But the learned Public Prosecutor submitted that, now the final report in the above case is already submitted and the case is pending for committal.

6. After considering the facts and circumstances of the case, I think, bail can be granted to the petitioner.

7. Now the learned Public Prosecutor submitted that, investigation is over and the final report is already submitted. Now the only condition that can be imposed is that, the petitioner should appear before the court concerned when summons is received.

8. Moreover, the learned counsel for the petitioner has got a case that the subsequent crime is a false case registered against him for the purpose of cancelling the bail order obtained by him. This is a fact to be proved at the time of trial. I am not in a position to comment anything about that. But considering the

facts and circumstances of the case and considering the fact that the petitioner is in custody from 10.3.2020 onwards, I think bail application can be allowed.

9. 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.

10. 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.

11. 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 they 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 they are going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioner and shall ensure that the petitioner do 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 lockdown.

8. The petitioner shall appear before the Station House Officer of Thrissur East Police Station on all Mondays at 10 am for a period of three months from today.

9. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN  
JUDGE**

**ab**