

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.2731 OF 2020

(CRIME NO-379 OF 2020 OF MUVATTUPUZHA POLICE STATION, ERNAKULAM DISTRICT)

PETITIONER/ACCUSED-4

PRADEEP V.S, S/O SHIBUDAS.V.V  
AGED 30 YRS,  
ASWATHI ATTUPURATH (H)  
NOW RESIDING AT ORANGE APPARTMENT,  
CHALIYAKKAL, CHELEMBRA,  
MALAPPURAM

BY ADV. SRI AJEESH M UMMER

RESPONDENTS/COMPLAINANTS:

1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.
2. THE SUB INSPECTOR OF POLICE,  
MUVATTUPUZHA POLICE STATION, ERNAKULAM DISTRICT.-  
PIN-683572

BY P.P. SRI.AJITH MURALI & SRI.SANTHOSH PETER(SR)

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

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.2736 OF 2020

(CRIME NO-379 OF 2020 OF MUVATTUPUZHA POLICE STATION, ERNAKULAM DISTRICT)

PETITIONER/ACCUSED-8

SHAHID S/O BASHEER  
AGED 30 YEARS, VALPARAMBIL HOUSE,  
PUTHIYANGADY KARA,  
THALAKAD VILLAGE, TIRUR,  
MALAPURAM DISTRICT

BY ADV. SRI AJEESH M UMMER

RESPONDENT/COMPLAINANTS:

1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.
2. THE SUB INSPECTOR OF POLICE,  
MUVATTUPUZHA POLICE STATION, ERNAKULAM DISTRICT.-  
PIN-683572

BY P.P. SRI.AJITH MURALI & SRI.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. Nos. 2731 & 2736 of 2020**  
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**Dated this the 12<sup>th</sup> day of May, 2020**

**ORDER**

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

2. These Bail Applications are filed by accused Nos.4 & 8 in Crime No.379/2020 of Muvattupuzha Police Station. Above case is registered against the petitioners and others alleging offences punishable under Sections 364A, 341, 342, 323, 324, 294(b), 506(ii) r/w 34 of the IPC.

3. The prosecution case, in brief, is that, on 27.2.2020 at 7 pm, the brother of the defacto complainant was abducted for ransom and assaulted by the petitioners along with other accused. Thus the petitioners have committed the abovesaid offences.

4. The counsel for the petitioners submitted that, the petitioner(A4) in B.A. No. 2731/2020 was arrested on 21.3.2020, and the petitioner(A8) in B.A. No.2736/2020 was arrested on 3.3.2020. He submitted that, in the alleged incident, the 1<sup>st</sup> & 2<sup>nd</sup> accused also sustained injuries. He also submitted that, the 9<sup>th</sup> accused was granted bail by this Court earlier.

5. The learned Public Prosecutor submitted that, interim bail was granted to the 9<sup>th</sup> accused by this Court. The learned Public Prosecutor also submitted that, bail applications of these petitioners can be allowed on stringent conditions.

6. After hearing both sides and considering the contentions of the petitioners, and the submission of the learned Public Prosecutor, I think, these bail applications can be allowed. Admittedly, this Court granted interim bail to the 9<sup>th</sup> accused in this crime. Hence, these bail applications 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 **Writ Petition(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 separate self bonds 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 numbers and the addresses at which the petitioners would be residing after their release.

3. The Superintendent of Jail concerned, immediately after release of the petitioners will forthwith forward the bail bonds 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 numbers 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 do not violate the terms of the undertaking.

5. 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.

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 separate bonds 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**

MMG