

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.2747 OF 2020

(Crime No. 448/2020 of Vellathooval Police Station, Idukki District).

Petitioner/Accused.

Saneesh @ Saneeshmon T.R., aged 28 years, S/o Raveendran, Thullomparampil, Muniyara Post, Konnathdy Village, Idukki.

BY ADV.SRI.S.JIJI

Respondents/State & S.H.O.

1. State of Kerala, Represented By Public Prosecutor, High Court of Kerala, Ernakulam-682031.
2. Station House Officer, Vellathooval Police Station, Vellathooval P.O., Idukki-685563.

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:

ORDER

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioner is the accused in Crime No.448 of 2020 of Vellathooval Police Station, Idukki District registered alleging offences punishable under Sections 324, 326, 447 and 506 (i) of the Indian Penal Code.

3.The prosecution case is that on 01.05.2020 at about 3.30 p.m,. the petitioner voluntarily attacked the de facto complainant, who is none other than his sister, with stick, and she sustained grievous injuries on different parts of her body.

4. The learned counsel for the petitioner submitted that there are civil disputes between the parties. According to him, a counter case is also registered. He further submitted that actually the de facto complainant attacked the petitioner and thereafter she ran away and at that time she fell down from a kaiyyala and she sustained injuries. The learned counsel submitted that the petitioner is working as a clerk in a private

college.

5.The learned Public Prosecutor submitted that serious injuries were inflicted by the petitioner to the de facto complainant, who is none other other his sister and hence this Court may not grant Anticipatory Bail to the petitioner.

6.After hearing both sides and considering the facts and circumstances of this case, I think, this Bail Application can be allowed. Admittedly, the petitioner and the injured are relatives. There are civil disputes between the petitioner and the injured. According to the learned counsel for the petitioner, the incident was not happened, as alleged by her. He submitted that a counter case is registered. Whether the version of the petitioner or the version of the victim is correct or not is to be decided during investigation of the crime and also at the time of trial. At this stage, I think, considering the facts and circumstances of the case and also taking note of the fact that the petitioner has no criminal antecedents, 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 petitioner 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 petitioner, he 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 petitioner shall appear before the Investigating Officer on all Mondays' and Fridays' at 10 a.m. and also as and when required by the Investigating Officer till a final report is filed in Crime No.448 of 2020 of Vellathooval Police Station. The petitioner shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. The petitioner shall not enter the

jurisdictional limits of the Vellathooval Police Station except for the purposes mentioned above, till a final report is filed in Crime No.448 of 2020 of vellathooval Police Station.

5. The petitioner 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 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

pkk