

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.2748 OF 2020

(Crime No: 121/2020 of Wadakkanchery Police Station in Thrissur District )

**Petitioner/Accused:**

Surendran KS, Aged 37 Years, S/o Sankaran, Kizhussery Veedu,  
Korattiyankunnu, Kanjirakode, Thrissur District.

By Adv.Sri.P.T.Sheejish

**Respondents/State & Complainant:**

1. State of Kerala, Represented by the Public Prosecutor,  
High Court of Kerala, Ernakulum 682 031.

2. Vinay, S/o Raveendran, Changamkuzhi House,  
Korattiyamkunnu, Thrissur District,  
Pin 680543.

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:

**P.V.KUNHIKRISHNAN, J**

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B.A.No.2748 of 2020  
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Dated this the 15<sup>th</sup> day of May, 2020

**O R D E R**

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

2. Petitioner is the sole accused in Crime No.121 of 2020 of Wadakkanchery Police Station registered alleging offences punishable under Sections 341, 294(b), 308 & 506 of IPC.

3.The prosecution case is that the accused person wrongfully restrained the defacto complainant and his friend, and assaulted the defacto complainant using a knife with an intention to commit culpable homicide.

4. The counsel for the petitioner submitted that there is a counter case also registered and according to

the petitioner the incident is not happened as alleged prosecution. He also submitted that no serious injury sustained to the alleged injured in this case.

5.The learned Public Prosecutor submitted that, if this court is granting bail to the petitioner stringent conditions may be imposed.

6. After hearing both sides, I think this bail application can be allowed. It is a case and counter case. Two versions are there about the same incident. Which version is correct is to be decided during the investigation and trial. The Police is investigating both cases. At this stage, I think, this bail application can be allowed, especially, for the reason that no serious injury is sustained to the injured in this case.

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 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.

4. 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**

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