

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.2764 OF 2020

(IN CRIME NO:167/2020 CHAVAKKAD POLICE STATION .
THRISSUR DISTRICT)

PETITIONER/ACCUSED NO :3

MUJEEB, AGED 40 YEARS,
S/O KHALID, KATTIRAKATH HOUSE,
EDAKAZHIYOR,
THRISSUR DISTRICT, 680515

BY ADV B.H.MANSOOR.

RESPONDENTS: COMPLAINANT /STATE .

1.STATE OF KERALA
REP BY:PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM.682031

2.STATION HOUSE OFFICER.
CHAVAKKAD POLICE STATION.

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:

B.A.No. 2764 of 2020

2

P.V.KUNHIKRISHNAN, J

B.A.No. 2764 of 2020

Dated this the 15th day of May, 2020

ORDER

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

2. Petitioner is the 3rd accused in Crime No. 167 of 2020 of Chavakkad Police Station. The above case is registered against the petitioner alleging offences punishable under Sections 341, 323, 324, 294(b), 506 and 308 read with Section 34 IPC.

3.The prosecution case is that on 13.03.2020 at about 6.00 p.m., the petitioner along with other accused attacked the defacto complainant and his friends using stone and stick and thereby he sustained injury.

4. The counsel for the petitioner submitted that, it is

a case and counter case. The case against the defacto complainant in this case was registered as Crime No.166 of 2020 and the present case is registered subsequent to that. According to the counsel for the petitioner, the incident is not happened as alleged by the prosecution.

5.The learned Public Prosecutor submitted that it is a case and counter case. If this Court is granting bail, stringent conditions may be imposed.

6.Considering the facts and circumstances of this case, I think this Bail Application can be allowed. It is a case and counter case. Two versions are there about the same incident. The police is investigating both the cases. Moreover, no serious injuries are sustained to the injured in this case. Considering the facts and circumstances of the case, I think 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 on 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 with law, even though the bail is granted by this Court.

P.V.KUNHIKRISHNAN, JUDGE