

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 11TH DAY OF MAY, 2020 / 21ST VAISAKHA, 1942

B.A.NO.9088/2019

CRIME NO.506/2019 OF KOLLENGODE POLICE STATION, PALAKKAD DISTRICT

PETITIONER/ACCUSED

BIJU, AGED 35 YEARS, S/O.  
VISWANATHAN, MUNDIYAMPARAMBU,  
NENDAN KIZHAYA, KOLLENGODE,  
PALAKKAD DISTRICT.

ADV. NIREESH MATHEW

RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY THE PUBLIC  
PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM

SRI. AJITH MURALI, PP  
SRI. SANTHOSH PETER SR.PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON  
11.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J.**

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**B.A. No. 9088 of 2019**  
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**Dated this the 11<sup>th</sup> day of May, 2020**

**ORDER**

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

2. The petitioner is the sole accused in Crime No.506/2019 of Kollengode Police Station. Above case is registered against the petitioner alleging offences punishable under Sections 341 and 354 of the IPC.

3. The prosecution case is that, on 21.11.2019 at about 8 am, the accused with an intention to outrage the modesty of the defacto complainant, hugged her and caught hold on her jacket and thereby committed the abovesaid offences.

4. The counsel for the petitioner submitted that there is an enmity to the defacto complainant against the petitioner, and a false case is registered against him. He also submitted

that the petitioner is ready to abide by any conditions, if this Court grants bail to him.

5. The learned Public Prosecutor submitted that the petitioner and the victim are neighbours. If this Court grants bail to the petitioner, he will create problems from his house showing that he got bail from the High Court, and this will create further problem in the investigation.

6. After hearing both sides, I think this bail application can be allowed on stringent conditions, especially in the light of the submission of the Public Prosecutor. I am not believing the words of the petitioner that the victim has foisted a false case for the alleged animosity mentioned in the bail application. Anyway, in the facts and circumstances of the case, I think this bail application can be allowed on stringent conditions.

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, 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 proposes 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 at 10 am, till the final report is filed.

4. 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.

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.

6. The petitioner shall not enter the jurisdictional limits of Kollengode Police Station, Palakkad, till final report is filed in Crime No.506/2019, except for the purpose of appearance before the Investigating Officer.

7. 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**

MMG