

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 06TH DAY OF MAY 2020 / 16TH VAISAKHA, 1942

B.A.TMP NO.102 OF 2020

(Crime No. 236 /2020 of Kaipamangalam Police Station in Thrissur District)

PETITIONER / ACCUSED:-

Sudheer, aged 38 years, S/o Yousaf , Valiyakath house, P.O.Chalingadu
Kaipamangalam village, Kodungallur Taluk, Thrissur District. Pin-680681.

By Adv. P.M.Abdul Jaleel
A.G.Viswambharan
Hashim.V.H.

RESPONDENTS / DEFACTO COMPLAINANT :-

1. State of Kerala represented by Public Prosecutor ,
High Court of Kerala , Ernakulam, Cochin, Pin- 682031.
2. Station House Officer, Kaipamangalam Police Station represented by
Public Prosecutor , High Court of Kerala , Ernakulam, Cochin, Pin- 682031.

BY P.P.SRIAJITH MURALI & SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON
06.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

B.A.TMP No.102 of 2020

Dated this the 6th 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 accused in Crime No.236 of 2020 of Kaipamangalam Police Station registered alleging offences punishable under Sections 341, 324, 294 (b), 506, 427 and 308 of the Indian Penal Code.

3.The prosecution case is that the petitioner attacked the injured and use filthy language, threatened etc.

4. The counsel for the petitioner submitted that the petitioner is not involved in this case and the allegation against him are not correct. He is ready to abide any conditions if this court grant bail.

5.The learned Public Prosecutor submitted that there is no serious injury to the injured person. If this court granting bail

to the petitioner, stringent condition may be imposed.

6. Considering the contention of the parties and considering the fact that no serious injury is sustained to the victim and also it is difficult to say at this stage, whether the offence under Section 308 of the Indian Penal Code is attracted, 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

YKB