

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.123 OF 2020

(CRIME NO.44 OF 2020 OF SREEKRISHNAPURAM POLICE STATION, PALAKKAD DT.)

PETITIONER/ACCUSED:

Suresh Babu, aged 48 years, S/o.Balan,
Alachuth House, Edathanattukara P.O,
Palakkad District

ADV.SRI.K.MOHANAKANNAN

RESPONDENT/STATE

1. State of Kerala,
Rep: by the Public Prosecutor,
High Court of Kerala, Kochi-31
2. Sub Inspector of Police,
Sreekrishnapuram Police Station,
Palakkad District-679 513

BY P.P.SRI.AJITH 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.123 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.44 of 2020 of Sreekrishnapuram Police Station registered alleging offences punishable under Sections 12, 11(1)(3) of the Protection of Children from Sexual Offences (POSCO) Act, Section 75 of the Juvenile Justice (Care and Protection of Children) Act and Sections 294(b) and 323 of the Indian Penal Code.

3.The prosecution case is that on 09.03.2020, the petitioner has compelled his own child who is a minor to see a porn video in his lap-top and mobile and there was quarrel between the petitioner and his wife.

4. The counsel for the petitioner submitted that there is a matrimonial dispute between the petitioner and his wife. This

case is foisted against the petitioner at the instance of his own wife.

5.The learned Public Prosecutor opposed the bail application.

6. Considering the facts and circumstances of the case, I think this bail application can be allowed. The petitioner is a Government Servant. There is admittedly a matrimonial dispute between the petitioner and his wife. It is stated by the counsel for the petitioner that the petitioner, his wife and the alleged victim child are residing together even now. In the light of the facts and circumstances of the case, 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