

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.153 OF 2020

Crime No: 265/2020 of Tirurangadi Police Station  
Malappuram District

**Petitioner/Accused No:2 to 11;**

1. Ubaid P aged 27,  
S/o. Muhammed  
Pullikkal House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
2. Mubashir KK aged 24,  
S/o. Musthafa  
Kadakkottiri House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
3. Salmanul Faris T aged 24,  
S/o. Ashraf  
Thekkil House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
4. Vishnu aged 22,  
S/o. Ashokan  
Mannamparambath House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
5. Asif Rahman T aged 25,  
S/o. Mujeeb Rahman  
Thenath House,  
Pantharangadi PO,  
Malappuram District,

- Kerala  
Pin 676306
6. Ramees aged 24,  
S/o. Musthafa  
Machincheri House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
7. Shafeeque KT aged 25,  
S/o. Koya  
Kurunthottathil House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
8. Afran P aged 20,  
S/o. Yunus  
Poongadan House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
9. Sadique aged 24,  
S/o. Ahamed  
Kuttasseri House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306
10. Asif PT aged 24,  
S/o. Hassan  
Pulikkathoombayil House,  
Pantharangadi PO,  
Malappuram District,  
Kerala  
Pin 676306

By, Adv. Sri Navaneeth.N.Nath  
Adv. Sri Ibrahimkutty. C  
Adv Kum. Raji N

**Respondents/ Complainant:**

1. State of Kerala,  
Represented by the Public Prosecutor,  
High Court of Kerala, Ernakulam,  
Kochi-682031

2. The Sub Inspector  
Tirurangadi Police Station (Crime No: 265/2020),  
Malappuram, Kerala  
Pin- 676306

**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:**

**ORDER**

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

2. Petitioners 2 to 11 are accused in Crime No. 265 of 2020 of Tirurangadi Police Station, Malappuram District. The above case is registered alleging offences punishable under Sections 143,144,148,341,323,326,294(b),324, 506 r/w S.149 of the Indian Penal Code.

3. The prosecution case is that on 19.04.2020 at 6 p.m. the petitioners along with two other accused persons, in furtherance of their common intention have assaulted the de facto complainant and thereby committed the offences alleged above.

4. The counsel for the petitioner submitted that there is a counter case registered in this case. He also submitted that the main over act alleged is against the first accused who was already released on bail, after arrest. He also submitted that the injuries sustained to the de facto complainant is not serious.

5. The learned Public Prosecutor opposed the bail application.

6. After hearing both sides, I think this bail application can be granted. It is a case in which a counter case is also registered. There are two versions about the same incident and which version is correct is to be decided at the trial. Moreover, there is no serious overt act against the petitioners who are accused Nos.2 to 11. The first accused was already arrested and released on bail. In such circumstances, I think this bail application can be granted.

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 petitioners 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 petitioners, they 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 petitioners shall appear before the

Investigating Officer as and when required. The petitioners shall co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. The petitioners 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 petitioners, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN, JUDGE**

**pkk**