

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 164 NO.OF 2020

(Crime No. 789/2020 Chengannur Police Station, Alappuzha District)

Petitioner/Accused:

T.N.Soman,  
Aged 67 years,  
S/o. Nanu,  
Pradeep Bhavanam,  
Elenjimmel, Chengsnur  
Alapuzha district

By Advocate Sri. S. Rajeev

Respondents/Complainant:

1. State of Kerala,  
Rep. by Public Prosecutor,  
High Court of Kerala,  
Ernakulam-682 031  
(Crime No. 789/2020 of Chengannur  
Police station, Alappuzha district)

2. Station House Officer,  
Chengannur Police Station,  
Alappuzha District – 689 121  
(Crime No. 789/2020 of Chengannur Police  
Station, Alappuzha district)

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. The petitioner is the sole accused in Crime No.789 of 2020 of Chengannur Police Station alleging offences punishable under Sections 354A(1)(1) and Sections 7 and 8 of the Protection of Children From Sexual Offences Act.

3.The prosecution case is that the petitioner with a sexual intent caught hold of the hand of the victim girl. Further allegation is that he stared at the victim with sexual intent.

4. The counsel for the petitioner submitted that even if the entire allegations are accepted, no offences are made out against him. He also contended that the case is registered because of the animosity with the petitioner. He also submitted that the petitioner is ready to abide any conditions imposed by this Court for granting bail.

5. The learned Public Prosecutor opposed the bail application. He submitted that the petitioner is involved in

another case also. He also submitted that it is a fact that the petitioner attempted to commit suicide on an earlier occasion in connection with this incident.

6. The Counsel for the de facto complainant appeared before this Court through video conference. He contended that since serious offences are raised against the petitioner, he may not be granted Anticipatory Bail. He also contended that the victim girl is aged 30 years.

7. I have considered the contentions raised by the learned counsel for the petitioner, Public Prosecutor and the learned counsel appearing for the de facto complainant. After hearing all the parties, I think that this Bail Application can be granted. Even if the entire allegations in this case are accepted, the only case alleged by the de facto complainant against the petitioner is that the accused caught hold of the hand of the victim and stared at her with sexual intent. There is an allegation that there is animosity between the petitioner and the family of the victim girl. It is true that the petitioner was involved in another case. But that case was registered in

2019. In the light of the facts and circumstances of the case, I think that this bail application can be granted.

8. 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.

9. 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.

10. 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 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 not enter the jurisdictional limit of the Chengannur Police Station till a final report is filed in this case except for appearance before the Court and before the Investigating Officer for the purpose

mentioned above.

5. The petitioner shall appear before the Investigating Officer for potency test as and when required by the Investigating Officer.

6. 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.

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**

**pkk**