

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 05TH DAY OF MAY 2020 / 15TH VAISAKHA, 1942

BA TMP.NO.187 OF 2020

(Crime No.55/2020 of Kanjar Police Station, Idukki  
District)

**Petitioner/Accused No.1**

Anil P.S, Aged 32 Years,  
S/o Sivaraman,  
Ani Nivas House,  
Arakkulam Village

By Advocate Sri. B Surjith & Arun Jose Thomas

**Respondents / State & Complainant**

1. State of Kerala,  
Represented by Public Prosecutor,  
High Court of Kerala  
Ernakulam, Pin – 682031
2. The Sub Inspector of Police,  
Kanjar Police Station,  
Kanjar, Idukki District, Pin - 685590

By PUBLIC PROSECUTOR Sri.AJITH MURALI & SANTHOSH PETER(SR)

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON  
05.05.2020, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

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

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**B.A.TMP.No.187 of 2020**  
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**Dated this the 05<sup>th</sup> day of May, 2020**

**ORDER**

This Bail Application filed under Section 439 of Criminal Procedure Code was heard through Video Conference.

2. Petitioner is the 1<sup>st</sup> accused in Crime No.55 of 2020 of Kanjar Police Station registered alleging offences punishable under Sections 302, 201 and 202 of the Indian Penal Code. Petitioner was arrested on 02.02.2020 and he is in custody.

3.The prosecution case is that, on 15.1.2020, the petitioner herein inflicted injury on the head and neck of one Sasidaran using wooden plank and chopper causing his death. It is also alleged that the petitioner burnt the clothes of both deceased and himself. The

2<sup>nd</sup> accused who is none other than the wife of the petitioner herein had cleaned the place of incident with cloth and later burnt the cloth. The further case of the prosecution is that, the 3<sup>rd</sup> accused purposefully concealed the incident from the authorities.

4. The counsel for the petitioner submitted that he is in custody from 02.02.2020. According to him, he is entitled for statutory bail because he is in custody for the last 92 days and so far the police has not filed final report.

5.The learned Public Prosecutor on instructions submitted that the final report is not filed so far and hence the petitioner is entitled for statutory bail.

6. After hearing both sides, I think this bail application can be allowed. Since the petitioner is in custody from 02.02.2020 and 92 days are over after

his arrest and since no final report is filed in the case, the petitioner is entitled for statutory bail as per Section 167 of Cr.P.C.

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 Superintendent of Jail concerned where the petitioner is incarcerated is directed to release the petitioner on bail on executing a self bond ensuring that he will appear before the Court concerned as and when required, if he is not in

detention in any other case. It is further directed that the Superintendent of Jail should get the bail bond from the petitioner as stipulated in Section 441 Cr.P.C.

2. The Superintendent of Jail concerned shall also get the phone number and the address at which the petitioner would be residing after his release.

3. The Superintendent of Jail concerned, immediately after release of the petitioner will forthwith forward the bail bond obtained from the petitioner to the jurisdictional Court.

4. The petitioner immediately

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after release from the prison, report before the Station House Officer of the Jurisdictional Police Station and shall furnish his phone number and the place where he is going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioner and shall ensure that the petitioner does not violate the terms of the undertaking.

5. The petitioner shall appear before the Investigating Officer as and when required. The petitioner shall cooperate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with

the evidence.

6. The petitioner shall within one week from the commencement of the functioning of the jurisdictional court, if the court is not functioning at present, execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

7. The petitioner shall strictly abide by the various guidelines issued by the State Government and Central Government with respect to keeping of social distancing and other directions in the wake of declared



lock-down.

8. 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**

skj