

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.189 OF 2020

(Crime No. 58/2020 of Thalappuzha Police Station, Wayanad District)

Petitioner/Accused no: 1 to 13

- 1.** Swalih.T.K., S/o. Rasheed.T.K.,Aged 20 years,
Thazhadakandy House,
Velliparamaba.P.O.,-673 008.
- 2.** Ajmal.C.K.,S/o.Ahammed Koya.C.K., Aged 21 years,
Nedungotiriparamba, Nagathumpada,
Olavanna.P.O., Kozhikode – 673 019.
- 3.** Akshaykumar.K.S.,S/o.Sasikumar.K.K,
Aged 19 years, Kalladathil House, Puthur.P.O.,
Thrissur – 680 014.
- 4.** Abhiram.K.,S/o.Surrendran.K., Aged 19 years,
Kuhzhipalli House, Cheruvayoor.P.O.,
Vazhakkad, Malappuram District – 673 645.
- 5.** Adarsh.N.,S/o.Pradeepkumar.N.,
Naduvilattu House, Vengeri.P.O.,
Kozhikode – 673 010.
- 6.** Lijin.J.V., S/o.Jayan.C.,Sopanam (H),
Anoop Venue, Vellannad.P.O.,
Thiruvananthapuram – 695 543.

7. Sabique.M.,S/o.Muhammed Shareef.M.,
Mattath House, Al-Ameen Nagar, Nannambra,
Kodinhi.P.O. – 676 309.
8. Safwan, S/o Abdul Salim.C., Chettor House,
Perummanna.P.O., Kozhikode – 673 019.
9. Afirsalam, S/o.Abdul Salam, Kalakkal House,
Thirurkkad.P.O.,Thirurkkad – 679 321.
- 10.Safeer.E.K., S/o.Abu.E.K., Ettukandathil House,
Muttanchery.P.O., Nairkkuni, Kozhikode – 673 565.
- 11.Neeraj.R., S/o.Radhakrishnan,
Manikrishna House, Kollam.P.O.,Quilandy.
- 12.Favas, S/o.Aboobacker, Kunnathody House,
Manjeri.P.O.
- 13.Rahul.V.S., S/o.Shaju.V.R., Vethottil House,
Nattika.P.O.,Thrissur.

BY ADV.S.KABEER

Respondent/Complainant

1. State of Kerala, represented by the Public Prosecutor High Court of Kerala, Ernakulam, Kochi- 682 031.
2. The Sub Inspector of Police, Thalapuzha Police Station, Wayanad District – 670 644.

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.189 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. Petitioners are the accused Nos.1 to 13 in Crime No.58/2020 of Thalappuzha Police Station, registered alleging offences punishable under Sections 143, 147, 148, 341, 323, 324 and 326 r/w 149 of IPC.

3. The prosecution case is that on 5.3.2020 at about 4.45 PM, there was a clash between two groups of students at the Government Engineering College campus. The case of the prosecution that one of the injured sustained grievous hurt.

4. The counsel for the petitioners submitted that there is a case and counter case. It was a group clash and the injuries are minor. He also submitted that the case is politically motivated. He also stated that they are students and immediately after the lockdown there is examination to them.

5. The learned Public Prosecutor opposed the bail application. He submitted that there are two other cases registered against accused Nos.5 and 6. According to the prosecution the campus is not a place for political fight.

6. After hearing both sides and considering the fact that there is a case and the counter case and also considering the fact that immediately after the lockdown period, the examination of the students are scheduled, I think that the bail application can be allowed with stringent conditions. Moreover, custodial interrogation of the petitioners may not be necessary in this case.

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) each 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**

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