

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.224 OF 2020

(Crime No 163/2020 of Wadakkanchery Police Station, Thrissur District.)

Petitioners/accused

1. Joyson Jose, S/o Jose, aged 31,  
Thettalikkal House, Thaliyamkundu,  
Thekkumkara Village, Poomala-680561.  
Thrissur District.

2. Justin Jose, S/o Jose, aged 20,  
Thettalikkal House, Thaliyamkundu,  
Thekkumkara Village, Poomala 680561.  
Thrissur District.

By Adv. Mr. P.A.Ismail ( Puzhithara)

Respondents/Complainants

1. The State of Kerala represented by  
The Public Procecutor  
High Court of Kerala, Ernakulam.

2. The Sub Inspector of Police,  
Wadakkanchery Police Station,  
Thrissur District, Pin-680582.

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.224 of 2020  
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Dated this the 5<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. Petitioners are the accused in Crime No.163 of 2020 of Wadakkanchery Police Station registered alleging offences punishable under Sections 324 and 326 read with Section 34 of the Indian Penal Code. Petitioners were arrested on 26.3.2020 and they are in custody.

3.The prosecution case is that, on 23.3.2020 at 1.30 pm., the petitioners attacked the de facto complainant as the de facto complainant tried to stab mother of the accused and as retaliation of the attempt the petitioners then attacked the de facto complainant by which the de facto complainant sustained injuries. Hence this crime is registered.

4. The counsel for the petitioners submitted that they are in custody from 26.3.2020 and they may be released on bail.

5. The learned Public Prosecutor submitted that the fracture to the injured is on right finger and if this Court grant bail, stringent conditions may be imposed.

6. After hearing both sides, I think this bail application can be allowed. There is a case and a counter case registered as Crime No.163/2020 and Crime No.164/2020. There is a family dispute between the petitioner and the family of the injured. The investigation of the case is almost over. Hence 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 Superintendent of Jail concerned where the petitioners are incarcerated is directed to release the petitioners on bail on executing a self bond ensuring that they will appear before the Court concerned as and when required, if they are not in detention in any other case. It is further directed that the Superintendent of Jail should get the bail bond from the petitioners as stipulated in Section 441 Cr.P.C.

2. The Superintendent of Jail concerned

shall also get the phone numbers and the addresses at which the petitioners would be residing after their release.

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

4. The petitioners immediately after release from the prison, report before the Station House Officer of the Jurisdictional Police Station and shall furnish their phone numbers and the places where they are going to reside. The Station House Officer concerned shall keep a vigil on the whereabouts of the petitioners and shall ensure that the petitioners do not violate the terms of the undertaking.

5. 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.

6. The petitioners 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) each with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

7. The petitioners shall not enter into the jurisdictional limits of Wakakkanchery Police Station till the investigation is completed in this case.

8. The petitioners 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.

9. If any of the above conditions are violated by the petitioners, the jurisdictional Court can cancel the bail in accordance with law, even though the bail is granted by this Court.

**P.V.KUNHIKRISHNAN, JUDGE**

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