

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

B.A.TMP NO.226 OF 2020

**(Crime No. 21 of 2020 of Pavaratty Police Station, Thrissur District)**

**Petitioner/ 1<sup>st</sup> Accused:**

Muhammadunni @ Muhamad Mon,  
Aged 62 years, S/o. Kunjumon,  
Nalakath Paduvingal House,  
Kakkassery desom, Elavally village,  
Thrissur District

By: Adv. Deepu Thankan, Adv. Ummul Fida, Adv. Lakshmi Sreedhar

**Respondent/State:**

The State of Kerala,  
Represented by the Inspector of Police,  
Pavaratty Police Station, Thrissur District,  
Through the Public Prosecutor, High Court of Kerala, Ernakulam.

BY P.P.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.226 of 2020  
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Dated this the 5<sup>th</sup> day of May, 2020

**O R D E R**

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.21 of 2020 of the Pavaratty Police Station, Thrissur registered alleging offences punishable under Sections 143, 147, 148, 452, 341, 323, 324, 326, 506(ii) and 302 read with Section 149 of the Indian Penal Code. The petitioner was arrested on 2.02.2020 and he is in custody.

3.The prosecution case is that on 18.01.2020, at 7.30 pm, the petitioner along with seven other accused persons trespassed into the wife house of the de facto complainant and attacked him with iron bar, sword etc., causing grievous injuries and later, he was succumbed to the injuries on 24.01.2020.

4. The counsel for the petitioner submitted that the petitioner is in custody for the last 82 days. He is ready to comply any condition imposed by this Hon'ble Court.

5.The learned Public Prosecutor submitted that the petitioner committed serious offences. If this Court grant bail to the petitioner, stringent conditions may be imposed.

6.After hearing both sides, I think this bail application can be allowed on stringent conditions. The petitioner is in custody for the last 82 days. Originally the case was registered under Sections 452 and 302 of the Indian Penal Code. Subsequently, when the de facto complainant succumbed to the injuries, Section 302 of the Indian Penal Code was added. The investigation of the case is almost over. The main witness were already questioned. The continued detention of the petitioner may not be necessary in this case. Therefore, this bail application is 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 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 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 co-operate 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.

9. The petitioner will surrender the passport before the investigating officer within 7 days from the date of his release.

10. The petitioner shall not enter the jurisdiction limit of the Pavaratty Police Station, Thrissur till final report is filed in the above case.

**P.V.KUNHIKRISHNAN, JUDGE**