

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 5TH DAY OF MAY, 2020 / 15TH VAISAKHA, 1942

B.A. TMP No. 260 / 2020

(Crime No. 284/2020 of Thrissur Town West Police Station, Thrissur District)

Name and Address of the Petitioners/Accused Nos. 1 & 2:

1. Anoop, aged 27 years, S/o. Surendran, Oloppilly House, Vattappinni, Nedupuzha, Thrissur.
2. Ajan, aged 24 years, S/o. Santhosh, Puliparambil House, Ammadam, Thrissur.

By. Adv. Vishnu Prasad Nair

Name and Address of the Respondents/State:

1)State of Kerala represented by the Public Prosecutor, High Court of Kerala, Ernakulam – 682031.

2)Station House Officer, Thrissur Town West Police Station, Thrissur District.

SRI.AJITH MURALI, PP

SRI.SANTHOSH PETER, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION 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.260 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 accused Nos.1 and 2 in Crime No.284 of 2020 of Thrissur Town Police Station registered alleging offences punishable under Sections 363, 387, 324, 506 read with Section 34 of the Indian Penal Code. Petitioners are in custody from 07.03.2020.

3.The prosecution case is that the de facto complainant gave a tip to the Excise Enforcement and Anti Narcotics Squad, Thrissur regarding the huge quantity of Ganja being kept by one Rupesh who is allegedly a friend of the petitioners herein and the other accused at a place near Mannurthy and the Excise Enforcement and Anti Narcotics Squad, Thrissur raided the place and arrested the accused. The accused are undergoing pretrial detention in that case. After sometime from

various sources the accused persons herein came to know that the de facto complainant herein is the person who informed the Excise Enforcement and Anti Narcotics Squad regarding the alleged stocking and sale of Ganja by Rupesh. Hence, petitioners herein in furtherance of their common intention, kidnapped the de facto complainant on 15.02.2020, at about 12.30pm, from the District Court Complex, Thrissur. It is also the case of the prosecution that he was assaulted by the petitioners.

4. The counsel for the petitioners submitted that the petitioners are in custody from 07.03.2020 onwards. They are innocent and they may be released on bail on any condition.

5.The learned Public Prosecutor opposed the bail application and submitted that the 1<sup>st</sup> accused in this case is involved in 8 cases which includes a murder case. The case against the petitioners are heinous in nature. In such circumstances, bail may not be granted to the petitioners, the prosecutor submitted.

6.After hearing both sides, according to me, this is not a

fit case, in which the bail can be granted. An informant of a crime was kidnapped by the petitioners and assaulted. The petitioners were arrested only on 07.03.2020. Moreover, about 8 cases are pending against the 1<sup>st</sup> accused. The prosecutor submitted that one of the case is a murder case. The nature of accusation and severity of the punishment in the case of conviction is a factor to be considered while considering the bail application. If the petitioners are released on bail at this stage, it will give a wrong signal to the society.

7. Moreover, the jurisdiction to grant bail has to be exercised on the well settled principles laid down by the Hon'ble Supreme Court in **Chidambaram P v Central Bureau of Investigation (AIR 2019 SC 5272)** the following factors are to be taken into consideration while considering the application for bail.

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering

with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

It is true that there is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be decided on the basis of the facts and circumstances of that case. In the light of the general principles laid down in the above judgment and considering the facts and circumstances of this case, I am of the opinion that this is not a fit case in which the petitioner can be released on bail. Hence this Bail Application is dismissed.

**P.V.KUNHIKRISHNAN, JUDGE**