

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. 280 / 2020

(Crime No: 1406/2019 of Kundara Police Station in Kollam District, pending as CP No: 37/2020 on the file of the Judicial First Class Magistrate Court-I, Kollam)

Petitioners/Accused No: 1 :

Shakkeer Babu @ Chikku, S/o.Muhammed Babu,
Aged 28 Years, Ashtamudi Poyka Melathil,
Karikkuzhi, Perayam, Padappakkara,P.O.
Kundara, Kollam-691503

By Adv. Sri. B.Mohan Lal.

Respondents/complainants:

1. State of Kerala, Rep. by the Public Prosecutor,
High Court of Kerala, Ernakulam-682 031.
2. The Station House Officer, Kundara Police Station,
Kundara.P.O Kollam -691501

SRI. AJITH MURALI, PP
SRI. SANTHOSH PETER, SR.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

B.A.TMP.No. 280 of 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 1st accused in Crime No.1406 of 2019 of Kundara Police Station in Kollam District, which is now pending as CP No.37 of 2020, on the files of the Judicial First Class Magistrate Court-I, Kollam. The above case is charge sheeted by the police alleging offences punishable under Sections 323, 324, 294(b), 506(1) and 308 read with Section 34 of the Indian Penal Code.

3. The prosecution case is that the petitioner along with the other accused formed themselves into an unlawful assembly with deadly weapons, shouted obscene words criminally intimidated, assaulted and inflicted injuries on the head of the defacto complainant. When it was resisted by

one Jomy, he was attacked and he also sustained injuries and hence, the petitioner committed culpable homicide. The petitioner was arrested by the police on 03.08.2019. He was enlarged on bail by the Ist Additional Sessions Court, Kollam, by order dated 07.09.2019, on condition that he will not involve in any other offence. Subsequently, he involved in other case and he was arrested. Hence, an application for cancellation of bail for violation of the condition of the bail order in Crime No.1406 of 2019 was filed and the learned Magistrate cancelled the bail. Subsequently, the petitioner was arrested.

4. The counsel for the petitioner submitted that the petitioner is in custody for the last several days and he may be released on bail on imposing any conditions.

5. The learned Public Prosecutor submitted that the petitioner involved in other case and his bail order was cancelled earlier for violating bail conditions.

6. After hearing both sides, according to me, this is

not a fit case, in which the bail can be granted. The petitioner was granted bail by the court below earlier. Thereafter, the petitioner involved in other crimes, in violation of the bail condition. Accordingly, an application was filed for cancellation of bail and the learned Magistrate cancelled the bail granted to the petitioner. The order of the Magistrate is in force. It is conceded before me that the cancellation order is not challenged. In such circumstances, I am not in a position to consider this bail application. At this stage the counsel for the petitioner submitted that he may be allowed to challenge the bail cancellation order.

Hence this bail application is dismissed with liberty to the petitioner to challenge the order cancelling his bail, if he is advised for.

P.V.KUNHIKRISHNAN, JUDGE