

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.57 OF 2020

(OR No. 4 /2020 of Silent Valley Forest Station in Palakkad District) .

Petitioners/Accused 1 to 3.

1. Anees Mon, Aged 35 years, S/o Abu, Edoor House, Karuvarakundu, Po, Nilambur Taluk, Malappuram District.
2. Ameer, Aged 35 years, S/o Sayed Alavi Haji, Bangalath House, Kalikavu, Po, Nilambur Taluk, Malappuram District.
3. Subramanyan, Aged 43 years, S/o Ayyappan, Palulli House, Iringattiri, Karuvarakundu, Po, Nilambur Taluk, Malappuram District.

By Adv. SAMSUDIN P,

Respondents/Complainant

1. State of Kerala represented by the Public Prosecutor, High Court of Kerala Ernakulam – 682 031.
2. Forest Range Officer, Silent Valley Forest Station, Attappadi, Palakkad district.

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.57 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 3 in OR No.4 of 2020 of Silent Valley Forest Station registered alleging offences punishable under Sections 9, 39, 51 and 52 of the Wild Life Protection Act and Section 27(1) (e) of the Kerala Forest Act.

3.The prosecution case is that on 01.04.2020, at 11 am, while the forest range officer and party were patrolling along Cherumba hill range, 5 persons were found sitting on a rock. Seeing the officers, they ran away. On inspecting the site, remains of wild meat and utensils were recovered. Hence, according to the prosecution the case is registered.

4. The counsel for the petitioners submitted that the petitioners are not involved in the case. Some neighbours who

are on enimical terms with the petitioners implicated them in the case. Actually they were not in the scene of occurrence.

5.The learned Public Prosecutor submitted that the forest officials identified the accused based on the statement of the neighbours. The learned Public Prosecutor opposed the bail application.

6.After hearing both sides, according to me this bail application can be allowed. This is a case in which there is a dispute regarding the identify of the accused. Of course this is a matter to be decided in the trial. But, when the petitioners raise a dispute regarding the identity, it is a matter to be considered at this stage. Moreover, the contraband articles were already recovered and no custodial interrogation of the petitioner is necessary. In such circumstances, the bail application can be granted to the petitioners.

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 on 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