

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.89 OF 2020

(CRIME NO. 121/2020 OF PARAPANAGADI POLICE STATION, MALPPURAM
DISTRICT)

PETITIONERS/ACCUSED NOS. 1 TO 3:

1. SADIK ALI, AGED 37 YEARS, S/O. MUHAMMED ABDURAHEMAN, VADAKKE PURATH HOUSE, ULLANAM NORTH, ULLANAM, PARAPPANGADI, MALAPPURAM, KERALA.
2. RASHEED, AGED 39 YEARS, S/O. MUHAMMEDALI, VADAKKE PURATH, ULLANAM NORTH, ULLANAM, PARAPPANGADI, MALAPPURAM, KERALA.
3. MAJID, AGED 32 YEARS, S/O. SAIDALVIKOYA, VADAKKE PURATH, ULLANAM NORTH, ULLANAM, PARAPPANAGADI, MALAPPURAM, KERALA.

BY ADV. THOMAS J. ANAKKALLUNKAL

RESPONDENTS/STATE & COMPLAINANT:

- 1) STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
- 2) THE STATION HOUSE OFFICER, PARAPPANAGADI POLICE STATION, MALAPPURAM 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. 89 of 2020

Dated this the 6th day of May, 2020

ORDER

This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. The petitioners are the accused Nos.1 to 3 in Crime No.121/2020 of Parappanangadi Police Station registered alleging offences punishable under Sections 341, 323, 324, 326, 427, 506(i), 294(b) r/w 34 of the IPC.

3. The prosecution case is that, on 30.3.2020 at 8.30 pm, accused Nos.1 to 3 obstructed the victim and assaulted him and threatened to kill him, called obscene words and damaged the scooter driven by him, and thereby committed the above offences.

4. The counsel for the petitioner submitted that, the petitioner and the defacto complainant are relatives and

neighbours. He also submitted that the incident is not happened as alleged by the prosecution. The defacto complainant and his party were the aggressors. A complaint is already filed as a counter case.

5. The learned Public Prosecutor opposed the bail application. He also submitted that there is a fracture in the rib of the injured.

6. After hearing both sides, I think, this bail application can be allowed on stringent conditions. There are two versions about the same incident. Both sides sustained injuries. Who is the aggressor, is a point to be decided at the time of trial. It is also stated that the petitioner and the defacto complainant are relatives and neighbours. In such circumstances, I think, the petitioners can be granted bail on stringent conditions.

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 **Writ Petition(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 proposes to arrest the petitioners, they shall be released on bail executing separate bonds for a sum of Rs.50,000/-(Rupees Fifty Thousand only) 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

MMG