

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

THURSDAY, THE 30TH DAY OF APRIL 2020 / 10TH VAISAKHA,
1942

BAIL APPL.NO.98 OF 2020

(CRIME NO 163/2020 OF VADAKKANCHERY POLICE STATION,
THRISSUR DIST.)

PETITIONERS/ ACCUSED

1. JOYSON JOSE, S/O JOSE, AGED 31,
THETTALIKKAL HOUSE, THALIYAMKUNDU,
THEKKUMKARA VILLAGE, POOMALA-680561.

2. JUSTIN JOSE, S/O JOSE, AGED 20,
THETTALIKKAL HOUSE, THALIYAMKUNDU,
THEKKUMKARA VILLAGE, POOMALA680561.

ADV.ISMAIL P.A

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA REPRESENTED BY
THE PUBLIC PROCECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.E.C.BINEESH

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30.04.2020, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V.G.ARUN, J.

B.A. No. 98 of 2020

Dated this the 30th day of April, 2020

ORDER

The petitioners are the accused in Crime No.163/2020 of the Vadakkanchery Police Station registered for the offences under Section 324, 326 read with 34 of the Indian Penal Code. The prosecution allegation is that on 23.03.2020, the petitioners attacked the defacto complainant, who is none other than their father, and caused injuries to him. The learned counsel for the petitioners would submit that there is a counter case registered at the instance of the petitioners their father who was the assailant and had caused several injuries to the first petitioner. The learned counsel for the petitioners submits that though, in the application it is stated that the petitioners are undergoing imprisonment at the Viyyur Sub Jail, they have subsequently been shifted to the Sub Jail, Chavakkad. This is recorded.

2. I have heard the learned Public Prosecutor also.

3. The fact remains that the petitioners have been arrested on 26.03.2020 and the investigation of the case is almost complete. I am of the opinion that further incarceration of the petitioners is not required.

4. The well accepted principle of bail being the rule and jail the exception, has been reiterated by the Honourable Supreme Court time and again. [See ***Nikesh Tarachand Shah v. Union of India [2018 (11) SCC 1 and P.Chidambaram v. Directorate of Enforcement [AIR 2019 SC 5272]***].

5. Considering the need to follow social distancing norms inside prisons. so as to avert the spread of the novel Corona-virus pandemic, the Honourable 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 minimising the number of inmates inside prisons.

Having due regard to the above mentioned orders/directions and the fact that the petitioners have been under remand from 26.03.2020 onwards, I deem it appropriate to allow the bail application by granting bail to the petitioners subject to the following conditions;

- i) The petitioners shall furnish to the Superintendent of the jail where they are incarcerated, their phone number and the address at which they would be residing after their release. The petitioners shall also provide the address of their proposed sureties and two of their near relatives and submit an undertaking that on release, they would abide by the conditions of the lock down imposed by the Central and State Government and be in quarantine, if so required.
- ii) On the aforementioned conditions being satisfied, the Superintendent of the Jail shall release the petitioners with due intimation about such release to the Station House

Officers of the Police Station where the crime against the petitioners have been registered and the Police Station within the jurisdiction of which the petitioners would be residing.

- iii) Immediately after release from prison, the petitioners shall report before the Station House Officer of the jurisdictional Police Station and shall produce a copy of the undertaking they had furnished before the Jail Superintendent. The Station House Officer concerned shall keep vigil on the whereabouts of the petitioners and shall ensure that the petitioners do not violate the terms of the undertaking.
- iv) The petitioners shall, within one week from commencement of functioning of the jurisdictional court, if the court is not functioning at present, execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Court.

v) The petitioners shall co-operate with the investigation and shall not threaten or make any attempt to influence witnesses or tamper with the evidence.

V.G.ARUN
JUDGE

VV/30.4.2020