

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

B.A NO.2306 OF 2020

**BAIL APPLICATION No.2306 of 2020**

**( Crime No. 1074/2019 of the Chavara Police Station,  
Kollam District)**

**PETITIONER/ 1st ACCUSED**

Tonny @ Johnson,  
Aged 42 years, S/o Bruno,  
Ammini Cottage, Neendakara Muri,  
Neendakara (PO), Kollam District.

By Adv. Sri N.Sunil Joseph

**RESPONDENTS/COMPLAINANTS**

1. State of Kerala  
Represented by the Public Prosecutor,  
High Court of Kerala, Ernakulam,  
PIN- 682 018
2. The Station House Officer,  
Chavara Police Station,  
Chavara (PO), Kollam district,  
PIN- 691 583.

BY PUBLIC PROSECUTOR SMT.M.K.PUSHPALATHA

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.**

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**Bail Application No. 2306 of 2020**  
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**Dated this the 30<sup>th</sup> day of April, 2020.**

**ORDER**

The Petitioner is the 1<sup>st</sup> accused in Crime No.1074/2019 of the Chavara Police Station Kollam District registered for the offences under Sections 457, 380 r/w Section 34 of the Indian Penal Code. The prosecution allegation is that, in between 8.9.2019 and 02.10.2019 the accused persons had stolen articles worth more than Rs.2 lakhs from the shop of the defacto complainant after breaking open the lock of the shop. Petitioner was arrested on 19.03.2020 and is continuing in custody.

2. The learned Public Prosecutor would submit that the investigation is yet to be completed.

3. 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].***]

3. 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.

4. Having due regard to the above mentioned orders and the fact that the petitioner has been in custody from 19.3.2020 onwards, I deem it appropriate to allow the bail application subject to the following conditions;

- i) The petitioner shall furnish to the Superintendent of the jail where he is incarcerated, his phone number and the address at which he would be residing after his release. The petitioner shall also provide the address of his proposed sureties and two of his near relatives and submit an undertaking that on release, he 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 Jail Superintendent shall release the petitioner with due intimation about such release to the Station House Officers of the Police Station where the crime

against the petitioner has been registered and the Police Station within the jurisdiction of which the petitioner would be residing.

- iii) Immediately after release from prison, the petitioner shall report before the Station House Officer of the jurisdictional Police Station and shall produce a copy of the undertaking he had furnished before the Jail Superintendent. The Station House Officer concerned shall keep vigil on the whereabouts of the petitioner and shall ensure that the petitioner do not violate the terms of the undertaking.
- iv) The petitioner 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 to the satisfaction of the jurisdictional Court.
- v) The petitioner 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**