

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

AND

THE HONOURABLE MR.JUSTICE SHAJI .P.CHALY

THURSDAY, THE 2ND DAY OF APRIL, 2020/13TH CHAITHRA, 1942

B.A No. 2009 of 2020

(CRIME NO. 96 OF 2020 OF SASTHAMCOTTA POLICE STATION, KOLLAM DISTRICT)

PETITIONERS/ACCUSED 3, 4 & 5

1. Jasir, Aged 23 years, S/o Afsad Kozhikkalayil Veedu
Kallukadavyam, Mynagappally Kollam District, PIN-690519
2. Anshad, Aged 21 years, S/o Shaji Thettiyil Kizhakkathil Kadappa,
Mynagappally Kollam District, PIN-690519
3. Subinshah @ Reneez Aged 19 years, S/o Saifudheen Kuttippurathu Veedu,
Mynagappally, Kollam District, PIN-690519

By Adv. Sri.C.S.MANU

RESPONDENTS/COMPLAINANT AND THE INVESTIGATING OFFICER

1. State of Kerala, represented by the Public Prosecutor, High Court of Kerala,
Ernakulam District, PIN-682031
2. The Station House Officer, Sasthamcotta Police Station, Kollam District,
(Notice to whom may be served on the Public Prosecutor,
High Court of Kerala, Ernakulam District, PIN-682031)

By Shri Suman Chakravarthy, Public Prosecutor

This Bail Application having come up for admission on 02/04/2020, the Court on the same day passed the following:-

A.K. JAYASANKARAN NAMBIAR & SHAJI P. CHALY, JJ.

BAIL APPLICATION NO.2009/2020

Dated this the 2nd day of April, 2020

O R D E R

Shaji.P.Chaly, J.

The petitioners are accused Nos.3, 4 and 5 in Crime No.96/2020 on the files of the Sashtamcotta Police Station, Kollam District, registered with offences punishable under Sections 143, 147, 148, 294(b), 323, 324, 307, 452 and 506 of the Indian Penal Code and Section 27 of the Arms Act, 1959. Petitioners 1 and 3 were arrested on 24/1/2020 and the second petitioner was arrested on 25/1/2020 and since then, they are in judicial custody. They seek regular bail under Section 439 of the Code of Criminal Procedure.

2. Learned Public Prosecutor submitted that there is no objection in granting provisional bail by imposing suitable conditions in the wake of present emergent situation of COVID-19.

3. Heard the learned counsel appearing for the petitioners and the learned public prosecutor. We have gone through the records which are made available.

4. Though prima facie, the allegations appear to be severe in nature, taking into account the present emergent situation of COVID-19 pandemic and the directives and advisories issued by the Central and State Governments for social distancing and for decongestion of jails, we are

of the considered view that provisional bail can be granted to the petitioners for a period of 30 days.

5. In the result, this application will stand allowed. The petitioners are granted provisional bail and we direct the Superintendent of the jail wherein, the petitioners are incarcerated to release them on bail on each of the petitioners executing a personal bond without sureties. The above order shall be subject to the following conditions:

(a) The petitioners shall furnish to the Jail Superintendent the permanent place of their abode and they shall undertake that they shall remain in quarantine for a period of 30 days from the date of this order. They shall also furnish their phone numbers and the phone numbers of their immediate relative. Before releasing the petitioners, the Superintendent of jail concerned shall verify the above details. The Superintendent of Jail shall also intimate the release of the petitioners to the SHO of the Police Station which has registered the crime.

(b) On being released from prison, the petitioners shall report before the jurisdictional police station and shall furnish a copy of the undertaking furnished before the Jail Superintendent. The SHO concerned shall ensure that the petitioners do not leave the premises where they have undertaken to remain in quarantine till such time the lockdown period continues in force, otherwise than for emergent situations, and exceptional reasons provided under the orders passed by Central and State Governments, for COVID-19 pandemic.

(c) The petitioners shall not tamper with the evidence or influence, persuade, threaten or coerce any prosecution witnesses in any manner whatsoever.

(d) The petitioners shall not commit any offence while on bail.

(e) On the expiry of 30 days ordered as above or within three days of the withdrawal of the lockdown by the government, whichever is earlier, the petitioners shall appear before the jurisdictional Court and seek regular bail. This provisional bail granted is on the basis of the present emergent situation also. However, if the accused are committing or attempting to commit any crime during the bail period, it will not deter the police or the jurisdictional court to take appropriate action in accordance with law.

(f) If the petitioners violate any of the conditions above, the Station House Officer may approach the jurisdictional Sessions Court and may move an application for cancellation of bail, which shall be considered and disposed of by the said court notwithstanding the fact that interim bail has been granted by this Court.

A.K. JAYASANKARAN NAMBIAR, JUDGE

SHAJI P. CHALY, JUDGE

ms/2/4/2020