

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

FRIDAY, THE 3rd DAY OF APRIL, 2020/14TH CHAITHRA, 1942

B.A TMP - 2 OF 2020

(CRIME NO.460 OF 2020 OF PATHANAPURAM POLICE STATION, KOLLAM DISTRICT)

PETITIONERS/ACCUSED 1 AND 6

- 1 MuhammedAbinAyoob, S/o Ayoob Khan, Aged 20 Years,
KunnuvilaPadinjattathilVeedu, Moolakkada, Kundayam P .O.,
PathanapuramVillage,PathanapuramTaluk, Kollam District.
- 2 Riyam Rahim, S/o ,Rahim Sahib, Aged 19 years ,
RijanManzil, Moolakkada, Kundayam P .O.,
Pathanapuram Village, PathanapuramTaluk ,Kollam District.

By Adv. Sri. B. MOHAN LAL

RESPONDENTS/STATE AND COMPLAINANT

- 1 State of Kerala, Represented by the Public Prosecutor,
High Court of Kerala, Ernakulam, Kochi-682 031.
- 2 The Station House Officer, Pathanapuram Police Station,
Pathanapuram, Kollam district – 689 695.

By Adv. Sri. Suman Chakravarthy, PP.

This Bail Application having come up for admission on 03/04/2020, the Court on the same day passed the following:-

**A.K.JAYASANKARAN NAMBIAR, J
&
SHAJI P. CHALY, J.**

B.A.TMP-2 OF 2020

Dated this the 3rd day of April, 2020

ORDER

Shaji P. Chaly, J.

The petitioners herein are the accused Nos. 1 and 6 in Crime No.460 of 2020 of Pathanapuram Police Station, Kollam District, registered with the offences punishable under Sections 143, 147, 148, 341, 323,324 and 307 r/w. Section 149 of the IPC. They were arrested on 16.3.2020 and remain in judicial custody. They seek regular bail under Section 439 of the Code of Criminal Procedure.

2. The learned Public Prosecutor has opposed the application mainly contending that the offences alleged against the petitioners are of serious nature and further contended that the bail application filed by the petitioners are pending consideration before the Sessions Court, Kollam.

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. We are conscious of the fact that since a proceeding is pending before the Sessions Court of the competent jurisdiction filed by the very same petitioners, it may not be appropriate for this Court to entertain the bail application. However, 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 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 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 number 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 Station House Officer 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 Station House Officer 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 is 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