

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2020 / 8TH ASWINA, 1942

Bail Appl..No.6021 OF 2020

CRIME NO.2521/2020 OF Karunaagapally Police Station, Kollam

PETITIONER/ACCUSED

CHANDRAN
AGED 53 YEARS
CHANDRA BHAVANAM, MARUTHOORKULANGARA NORTH,
KARUNAGAPPALLY VILLAGE, KARUNAGAPPALLY TALUK, KOLLAM
DISTRICT.
PIN-690573

BY ADV. SRI.T.GOPALAKRISHNAN

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA
ERNAKULAM - 682031
- 2 SUB INSPECTOR OF POLICE
KARUNAGAPPALLY POLICE STATION, KOLLAM DISTRICT.
690518

R1 BY PUBLIC PROSECUTOR

OTHER PRESENT:

SRI.RENJITH.T.R., PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
30.09.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

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

2. The Petitioner is the 2nd accused in Crime No.2521/2020 of Karunaagapally Police Station, Kollam District. The above case is registered against the petitioner and another, alleging offences punishable under Sections 341, 323, 324, 294(b), 354 and 506 read with Section 34 of the Indian Penal Code.

3. The prosecution case is that, on 30.08.2020 at about 6.30.a.m., the 1st accused attacked the defacto complainant and his wife in front of his house. It is alleged that, the 2nd accused also helped the 1st accused.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The learned counsel for the petitioner submitted that, even if the entire allegations are accepted,

there is no serious allegation against the petitioner, who is the 2nd accused in this case. The learned counsel for the petitioner submitted that, the only non-bailable offence alleged against the petitioner is under Section 354 of I.P.C. According to the counsel, even if the entire allegations are accepted, the offence under Section 354 of I.P.C is not made out.

6. The learned Public Prosecutor opposed the bail application. The learned Public Prosecutor submitted that, the allegation is that, the 1st and 2nd accused together committed the offence. The learned Public Prosecutor submitted that, the petitioner is not entitled Orders under Section 438 of Cr.P.C.

7. After hearing both sides, I think this bail application can be allowed on stringent conditions. The main allegation is against the 1st accused. The learned Counsel for the petitioner submitted that, the bail application of the 1st accused is pending before the Sessions Court. I make it clear that, I allow this bail application in favour of the 2nd accused, because there is no serious allegation against this petitioner. The bail application of the 1st accused will be

considered in accordance to law.

8. Considering the entire facts and circumstances of the case, I think this bail application can be allowed on stringent conditions.

9. 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 **W.P(C)No.9400 of 2020** issued various salutary directions for minimizing the number of inmates inside prisons.

10. 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.

11. 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 petitioner shall appear before the Investigating Officer within ten days from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioner, he shall be released on bail executing a bond 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 petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

4. Petitioner shall not leave India without permission of the jurisdictional Court.

5. Petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

6. The petitioner 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 Covid 19 pandemic.

7. If any of the above conditions are violated by the petitioner, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

Sd/-

P.V.KUNHIKRISHNAN

JUDGE