IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 15TH DAY OF JULY 2020 / 24TH ASHADHA, 1942

Bail Appl..No.3982 OF 2020

AGAINST THE ORDER IN CRMC 637/2020 OF DISTRICT COURT & SESSIONS COURT,KOLLAM

CRIME NO.1062/2020 OF Pallithottam Police Station , Kollam

PETITIONER:

MANUEL SOLOMON
AGED 39 YEARS
KALLELI VAYAL PURAYIDOM, KAIKULANGARA, KOLLAM DISTRICT, PIN - 691 009.

BY ADV. SRI.M.T.SURESHKUMAR

RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.

SRI.RENJITH.T.R., PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15.07.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J

B.A.No.3982 of 2020

Dated this the 15th day of July, 2020

O R D E R

This Bail Application is filed under Section 438 of Criminal Procedure Code.

2. The petitioner is the 1st accused in Crime No.1062 of 2020 of Pallithottam Police Station, Kollam District. The above case is registered against the petitioner and others alleging offences punishable under Sections 294(b), 341, 323, 324, 354 and 427 read with 34 of the Indian Penal Code.

3.The prosecution case is that, on 28.5.2020 at 10 p.m, in front of the residence of the brother of the de facto complainant, the petitioner along with other accused persons in the crime, had wrongfully restrained the brother of the de facto complainant and the 1st accused uttered obscene words. It is also alleged that the accused had assaulted the brother of the

de facto complainant and when the de facto complainant had interfered she was assaulted by the 1st accused using a cement block. This is the allegation against the petitioner.

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

5. The counsel for the petitioner submitted that the only non bailable offence is u/s.354 IPC. The counsel submitted that even if the entire allegations are accepted no offence u/s.354 IPC is made out.

6. The Public Prosecutor opposed the bail application. The Public Prosecutor submitted that a lady is attacked by the petitioner and she sustained injuries also.

7. After hearing both sides, I think this bail application can be allowed. The admitted case is that the accused attacked the de facto complainant and others. Whether an offence u/s. 354 IPC is made out or not is a matter to be investigated by the police. I do not want to make any observation whether Section 354 IPC is made out or not.

8. Considering the facts and circumstances of the case, I

think the 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 10 days from today.

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 co-operate with the investigation and shall not threaten or attempt to influence the witnesses or tamper with the evidence.

4. 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.

5. 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

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