IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 14TH DAY OF DECEMBER 2020 / 23RD AGRAHAYANA, 1942

Bail Appl..No.8199 OF 2020

CRIME NO.1544/2020 OF PALLITHOTTAM POLICE STATION, KOLLAM

PETITIONERS:

1 SANTHOSH
AGED 40 YEARS
QSS COLONY, VELICHAM NAGAR,
PALLITHOTTAM PORT, KOLLAM -691006

2 DALAMMA
AGED 50 YEARS
SETTLEMENT COLONY,
SNEHATHEERAM NAGAR-50, PORT,
KOLLAM -691006

3 JOHNCY
AGED 26 YEARS
SETTLEMENT COLONY,
SNEHATHEERAM NAGAR-50, PORT,
KOLLAM - 691006

4 BINDU
AGED 40 YEARS
QSS COLONY, VELICHAM NAGAR,
143, PALLITHOTTAM PORT,
KOLLAM - 691006

BY ADV. SRI.PRATHEESH.P

RESPONDENT:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM - 682031

R1 BY PUBLIC PROSECUTOR

OTHER PRESENT:

SRI.E.C.BINEESH, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.
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B.A.No. 8199 of 2020
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Dated this the 14th day of December, 2020

O R D E R

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

2. Petitioners are the accused in Crime No.1544/2020 of Pallithottam Police Station, Kollam District. The above case is registered against the petitioners alleging offences punishable under Sections 294(b), 323, 324, 354, 452, 506, 509 read with 34 of the Indian Penal Code.

3. The prosecution case is that, on 13.09.2020 at about 8.00.p.m., the accused persons used obscene language against the mother of the de facto complainant in connection with an issue with the son of the 4th

accused. The 3rd accused had hit the de facto complainant on her left shoulder with a stick. The 1st accused had hit on the face and chest of the de fcto complainant and her mother and also threatened that they will be burned by pouring petrol and the 1st accused had pushed the de facto complainant. There are other overtacts to the other accused also.

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

5. The learned counsel for the petitioners submitted that, this is a false case foisted against the petitioners. The learned counsel for the petitioners submitted that, this is a counter case filed by the de facto complainant in this case to crime Nos.1496/2020 & 1499/2020 at Pallithottam Police Station. The learned counsel for the petitioners submitted that, the present case is registered based on a private complaint filed before the Jurisdictional Court, which was forwarded under Section 156 (3) Cr.P.C. The learned counsel for the petitioners submitted that, the petitioners are ready to

abide any conditions, if this Court grant them bail.

6. The learned Public Prosecutor opposed the bail application. But the learned Public Prosecutor submitted that, if this Court is granting bail, stringent conditions may be imposed.

7. After hearing both sides, I think this bail application can be allowed on stringent conditions. Admittedly the present case is registered based on a private complaint filed before the Jurisdictional Court, which was forwarded under Section 156 (3) Cr.P.C. It is also a fact that, two other crimes are registered as crime No.1496/2020 & 1499/2020 at Pallithottam Police Station against the de facto complainant and others. I don't want to make any observations about the merit of this case. Considering the entire facts and circumstances of the case, I think this bail application can be allowed on stringent conditions.

8. 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.

9. 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.

10. 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 petitioners shall appear before the Investigating Officer within ten days from today

and shall undergo interrogation;

2. After interrogation, if the Investigating Officer proposes to arrest the petitioners, they shall be released on bail executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the officer concerned;

3. The petitioners shall appear before the Investigating Officer for interrogation as and when required. The petitioners 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. The petitioners shall not leave India without permission of the Court;

5. The petitioners 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 petitioners 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.

If any of the above conditions are violated by the petitioners, 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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