IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 21ST DAY OF DECEMBER 2020 / 30TH AGRAHAYANA, 1942

Bail Appl..No.8297 OF 2020

CRIME NO.2658/2020 OF Muvattupuzha Police Station , Ernakulam

PETITIONER/ACCUSED:

1 ABDUL ROUFAL
AGED 28 YEARS
MADAVANCHALIL HOUSE,
THATTUPARAMBU,
PEZHACKAPPILLY POST,
MULAVOOR VILLAGE,
MUVATTUPUHA
PIN-686673

2 ASIYA SALAM
AGED 52 YEARS
MADAVANCHALIL HOUSE,
THATTUPARAMBU,
PEZHACKAPPILLY POST,
MULAVOOR VILLAGE,
MUVATTUPUHA
PIN-686673

BY ADV. SRI.S.JIJI

RESPONDENT:

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

2 AJINSHA KUNJUMUHAMMED
AGED 18 YEARS
ELIKKATTU HOUSE, EAST VAZHAPPILLY POST,
KIZHAKKEKDAVU, ATTAYAM, MUVATTUPUZHA
686673

R1 BY SRI.AJITH MURALI, PP

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

Dated this the 21st day of December 2020

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

2. The petitioners are the accused in Crime No.2658/2020 of Muvattupuzha Police Station, Ernakulam District. The above case is registered against the petitioners alleging offence punishable under Section 498A of I.P.C.

3. The prosecution case is that, the petitioners mentally and physically harassed the defacto complainant.

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

5. After hearing both sides, I think, this bail application can be allowed on stringent conditions.

6. Admittedly, matrimonial offence is alleged against the petitioners. The petitioners says that, the parents of the victim solemnised the marriage without

informing that the victim is a mentally retarded person. The prosecution case is otherwise. I don't want to make any observation about the merit of the case.

7. Admittedly, matrimonial offence is alleged against the petitioners. 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, he 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 they are accused, or suspected, of the commission of which they are 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;

7. 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

Jms **//True Copy//** **P.A to Judge**