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.8309 OF 2020

CRIME NO.1024/2020 OF VALLIKUNNAM POLICE STATION, ALAPPUZHA

PETITIONERS:

1 ANANTHU R GOPAL
AGED 21 YEARS
G.K.SANTHANAM
KATTACHIRA
PALLICKAL.P.O.,
KAYAMKULAM
690106

2 ROY @ DEVAN
AGED 23 YEARS
SON OF VIMALAN
BHARGAVI NILAYAM
KATTACHIRA MURI
BHARANICKAVU
ALAPPUZHA
690520

BY ADVS.
SMT.A.SALINI LAL
SRI.R.SUNIL KUMAR

RESPONDENTS:

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

R1 BY PUBLIC PROSECUTOR

OTHER PRESENT:

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. 1024/2020 of Vallikunnam Police Station, Alappuzha District. The above case is registered against the petitioners and others alleging offences punishable under Sections 143, 147, 148, 452, 294 (b), 324, 427 and 354 read with 149 of the Indian Penal Code (IPC).

3. The prosecution case is that, one Vishnu who is the sister's son of the de facto complainant tried took the photograph of the 1st accused family without permission. For the same, the 1st accused family used to abuse them regularly and that was questioned by the de facto complainant. It is alleged that, 1st accused called the other

accused persons. During that time Vishnu came in a motor bike and they restrained him and caused damage to his bike. It is alleged that, when the same was questioned by the de facto complainant, the accused persons abused him and he ran inside his house. It is also alleged that, the 1st accused person trespassed into the house with a stick having length of his hand hit on his right shoulder. By hearing this de facto complainant's mother and wife reached the spot and the accused 2, 3 and 4 attacked them. It is also alleged that, they committed mischief.

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

5. The only non bailable offence alleged against the petitioners are under Section 452 and 354 of IPC. Some of the accused were already released on bail under Section 439 Cr.P.C. by this Court today. There are allegations and counter allegations about the incident. The entire incident started in connection with the allegation that one Vishnu

took the naked photos of 1st petitioner's mother. I do not want to make any observations about the merit of the case. The learned Public Prosecutor conceded that, there is no criminal antecedents reported against the petitioners. Considering the entire facts and circumstance of the case, I think this bail application can be allowed on stringent conditions.

6. 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.

7. 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.

8. 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 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.

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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