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**(2020) 12 KL CK 0069**  
**In the High Court Of Kerala**  
**Case No : Bail Application No. 7713 Of 2020**

Siju Jerald @ Bajju

APPELLANT

Vs

State Of Kerala And Anr

RESPONDENT

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**Date of Decision :** 04-12-2020

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 34, 294(b), 308, 323, 324, 326, 341, 506(ii)

**Citation :** (2020) 12 KL CK 0069

**Hon'ble Judges :** P.V. Kunhikrishnan, J

**Bench :** Single Bench

**Advocate :** M. Rajesh, Renjith. T.R.

**Final Decision :** Allowed

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## Judgement

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

2. Petitioner is the accused in Crime No.1499/2020 of the 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, 326, 506(ii) and 308 r/w 34 IPC.

3. The prosecution case is that on 15.9.2020 at about 12.15 pm. the accused in this case wrongfully restrained the defacto complainant by uttering

obscene words on him and assaulted him, by which he sustained very serious injuries. Petitioner is the 5th accused in this case. The allegation against

accused Nos.4 to 6 is that they kicked and fisted the defacto complainant. The overtacts attributed to the other accused is that they used dangerous

weapons and inflicted injuries on the defacto complainant.

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

5. The counsel for the petitioner submitted that all other accused were arrested and released on bail. The counsel submitted that there is no serious allegation against the petitioner. There is no criminal antecedents also alleged against the petitioner. The counsel submitted that the petitioner is ready to abide any condition, if this Court grant him bail.

6. The learned Public Prosecutor opposed the bail application. But the Public Prosecutor conceded that, no criminal antecedents is reported against the petitioner herein. The Public Prosecutor also submitted that there is no case to the victim that the petitioner used any dangerous weapon at the time of the alleged offence.

7. After hearing both sides, I think, this bail application can be allowed on stringent conditions. Admittedly, the main allegation is against the other accused. The petitioner is accused No.5. There is no case to the prosecution that the petitioner used any dangerous weapon. No criminal antecedents is also alleged against the petitioner. 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 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.