

James Vs. State of Kerala

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Court : Kerala

Decided On : Dec-09-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : James

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH MONDAY, THE 9TH DAY OF DECEMBER 2013 18TH AGRAHAYANA, 1935 Bail Appl..No. 8172 of 2013 () ----- CRIME NO. 2139/2013 OF ADOOR POLICE STATION, KOLLAM. PETITIONER/ ACCUSED NO1 ----- JAMES, S/O. E.M. MATHAI, AGED 52 YEARS, ELAMTHURUTHIL SOUTH HOUSE, AMBOORI P.O, THIRUVANANTHAPURAM. BY ADV. SRI.M.L.SURESH KUMAR. RESPONDENT/ STATE: ----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT.M.T. SHEEBA. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/12-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. THOMAS P. JOSEPH, J.

----- Bail Appl. No. 8172 of 2013 -----
----- Dated this the 9th day of December 2013 -----

ORDER

Petitioner is the 1st accused, in Crime No.2139 of 2013 of the Adoor Police station for the offences punishable under Secs.294B, 353, 143, 147 read with Sec.149 of the Indian Penal Code, apprehends arrest and has filed this application.

2. Learned Public Prosecutor has opposed the application. It is submitted that on 24.11.2013, the petitioner who is Sub Inspector of the Neyyadom Police station, accused nos. 2 to 4 who are also Police officials and certain other identifiable persons went to Sudarsana hotel to take food and there was a commotion. The Adoor Police was informed. The ASI of that station went there but, he could not manage the situation. He informed the SI who reached there. Petitioner and others used criminal force against the SI and deterred him from discharging official duty. Accused nos.2 to 4 were arrested at the spot. Bail Appl. No. 8172 of 2013 2 3. Learned counsel submitted that the allegations are not true. Since the food supplied was of low quality, petitioner and others complained about that to the hotel authorities and they immediately summoned the Police. No such incident has taken place.

4. It is not clear why the petitioner could not be arrested at the spot though accused nos.2 to 4 were arrested. Learned Public Prosecutor was not able to tell me whether any departmental action was taken against the petitioner and other officials if whatever is stated against them are true.

5. Having regard to the nature of allegations made, I am inclined to think that custodial interrogation of the petitioner is not required. Hence, I am inclined to grant relief to the petitioner. Resultantly, the application is allowed as under.

1. Petitioner shall surrender before the officer investigating Crime No.2139 of 2013 of the Adoor Police station on 16.12.2013 at 10.00 am for interrogation.

2. In case interrogation of the petitioner Bail Appl. No. 8172 of 2013 3 is not completed that day, it is open to the investigating officer to direct presence of the petitioner on any other day/days and time which the petitioner shall comply.

3. After interrogation, in case arrest of the petitioner is recorded, he shall be produced before the jurisdictional magistrate the same day.

4. On such production learned magistrate shall release the petitioner (if not required to be detained otherwise) on bail on his executing bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for the like sum each to the satisfaction of the learned magistrate and subject to the following conditions: (a) One of the sureties shall be a close relative of the petitioner. (b) Petitioner shall report to the officer investigating Crime No.2139 of 2013 of the Adoor Police station as and when required for interrogation. Bail Appl. No. 8172 of 2013 4 (c) Petitioner shall co-operate with investigation of the case. (d) Petitioner shall not get involved in any offence during the period of this bail. (e) Petitioner shall not influence or intimidate the witnesses. (f) In case any of the above conditions is violated, it is open to the investigating officer to file application before the learned magistrate for cancellation of the bail granted hereby as held in P.K.Shaji v. State of Kerala (AIR 2006 SC100. (g) If the petitioner does not surrender before the investigating officer on 16.12.2013 as aforesaid, this order will cease to be effective after 16.12.2013. Sd/- THOMAS P. JOSEPH JUDGE / True Copy / NS P.A. To Judge

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