

SubIn Vs. State of Kerala

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Court : Kerala

Decided On : Jul-14-2014

Judge : Honourable Mr. Justice K.Abraham Mathew

Appellant : Subin

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW MONDAY, THE 14TH DAY OF JULY 2014 23RD ASHADHA, 1936 Bail Appl..No. 5141 of 2014 ()
----- CRIME NO. 981/2013 OF VELLARADA POLICE STATION , THIRUVANANDAPURAM PETITIONER(S)/ACCUSED NOS.1 & 3 (UNDER JUDICIAL CUSTODY):

----- 1. SUBIN AGED 24 YEARS S/O.SRESH KUMAR @ KARIOSE, RESIDING AT KARUNYABHAVAN PANAYAM, KILIYOOR, VELLARADA VILLAGE.

2. SHIJU AGED 22 YEARS S/O.MARIYADAS, VEDUVANKUNNU ROADARIKATHU VEEDU KALLIMOODU DESOM, VELLARADA VILLAGE. BY ADV. SRI.THIRUMALA P.K.MANI RESPONDENT(S)/STATE:

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

2. S.I OF POLICE, VELLARADA POLICE STATION.

3. C.I OF POLICE, VELLARADA. R BY PUBLIC PROSECUTOR, SRI. DHANESH MATHEW MANJOORAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14-07-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: das K. ABRAHAM MATHEW, J.

----- B.A. No. 5141 of 2014
----- Dated this the 14th day of July, 2014

ORDER

Petition filed under Section 439 Cr.P.C.

2. Petitioners are accused nos. 1 and 3 in Crime No.981/2013 of Vellarada Police Station, which has been registered for offences under sections 143, 147, 148, 341, 294(b), 506(ii), 323, 324 and 307 r/w 149 IPC and Section 27 of Arms Act.

3. The allegation against them is that they, along with co-accused, armed with deadly weapons like sword, sticks etc, formed themselves into an unlawful assembly and in prosecution of the common object of the unlawful assembly, they followed on motor bikes the de facto complainant and his wife, who also were going on a motor cycle, wrongly fully restrained them, threatened to cause their death and assaulted them with sword and sticks. B.A. No. 5141 of 2014 -2- 4. It is submitted by the learned counsel for the petitioners that the de facto complainant created some problems on the previous date of the incident in connection with the program of an Arts Club and due to that enmity he has got this false case registered against the accused.

5. Heard the learned counsel for the Petitioners and the learned Public Prosecutor.

6. The facts of the case indicate that there was an organised effort on the part of the petitioner and the co- accused to commit the offences. It is a case of organised crime. The 1st petitioner is involved in two more criminal cases also. Proceedings have been initiated against him under section 107 of the Criminal Procedural Code. Merely because the co-accused have been released on bail and he has

been in custody for 27 days, the 1st petitioner cannot be released on bail. There is every likelihood of his committing similar offences. B.A. No. 5141 of 2014 -3- 7. On the other hand, since the 2nd petitioner is not involved in any other case, I am inclined to grant him bail. In the result this application is allowed in part. i. The 2nd petitioner shall be released on bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate concerned. ii. The petitioner shall appear before the Investigating Officer between 10.30 am and 11.30 am on every Monday for three months or till the final report is filed, whichever is earlier. iii. The petitioner shall not get himself involved in any other criminal case while he is on bail; nor shall he threaten or attempt to influence the witnesses. B.A. No. 5141 of 2014 -4- If the 2nd petitioner violates any of the above conditions, the court of enquiry/trial is empowered to cancel the bail in accordance with the law. Sd/- K. ABRAHAM MATHEW, JUDGE //True Copy// P.A. to Judge jjj

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