

**Sudheer Vs. State of Kerala**

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**Court :** Kerala

**Decided On :** Jul-15-2014

**Judge :** Honourable Mr.Justice Thomas P.Joseph

**Appellant :** Sudheer

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH TUESDAY,THE15H DAY OF JULY201424TH ASHADHA, 1936 Bail Appl..No. 5196 of 2014 (D) ----- [CRIME NO. 263/2014 OF VITHURA POLICE STATION , THIRUVANANTHAPURAM DISTRICT] ..... PETITIONER/ 2ND ACCUSED: ----- SUDHEER, AGED32 S/O. YOUSUF KUNJU, KONIL VEEDU, THOTTUMUKK, THOLIKODE VILLAGE, VITHURA P.O, THIRUVANANTHAPURAM DISTRICT. BY ADV. SRI.LATHEESH SEBASTIAN. RESPONDENTS/STATE & COMPLAINANT: ----- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM, ERNAKULAM - 31.

2. SUB INSPECTOR OF POLICE, VITHURA POLICE STATION, THIRUVANANTHAPURAM DISTRICT - 695 004. BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH. THIS BAIL APPLICATION HAVING COME UP FOR

ADMISSION ON1507-2014, ALONG WITH B.A. NO.5197/2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Prv. THOMAS P. JOSEPH, J.

----- Bail Appl. Nos.5196 & 5197 of 2014  
----- Dated this the 15th day of July 2014

## ORDER

Petitioner, same in both applications apprehends arrest by the Vithura Police in Crime Nos.263 of 2014 and 503 of 2014.

2. Allegation in Crime No.263 of 2014 is that on 10.04.2014 at about 2.30 p.m., there occurred an accident involving a motorcycle and a car which was used by persons belonging to the Muslim/Hindu community and following that incident, there was a commotion. The petitioner and others attempted to cause disharmony among different religious groups. The Police registered Crime No.203 of 2014 for the offence under Secs.143, 147, 148 and 153A read with Sec.149 of the Indian Penal Code.

3. A person who was present at the scene of occurrence in Crime No.263 of 2014 gave information to the Police regarding presence of the petitioner at the relevant Bail Appl. Nos.5196 & 5197 of 2014 2 time and place. The petitioner and the 2nd accused attacked the said person with deadly weapons like iron rod and voluntarily caused hurt/grievous hurt to him. The Police registered Crime No.503 of 2014 for the offences under Secs.324, 326 and 506(ii) read with Sec. 34 of the IPC.

4. Learned counsel submitted that the allegations are not true. It is submitted that the defacto complainant in Crime No.503 of 2014 is involved in five other cases. He attacked the 2nd accused, father of the petitioner demanding money. Petitioner intervened to save the 2nd accused. In that attempt, the defacto complainant may have sustained injury.

5. On hearing both sides, I am inclined to think that so far as Crime No.263 of 2014 is concerned, custodial interrogation of the petitioner is not required hence, I am inclined to grant him relief in that case.

6. So far as Crime No.503 of 2014 is concerned, it is a different matter. Alleged attack was for the reason of Bail Appl. Nos.5196 & 5197 of 2014 3 involvement of the petitioner being intimated to the Police. Weapon (allegedly) used by the petitioner is not recovered. Request of pre arrest bail in Crime No.503 of 2014 cannot be allowed. But I am inclined to issue directions. Applications are disposed of as under. I. Petitioner shall surrender before the officer(s) investigating Crime Nos.263 of 2014 and 503 of 2014 of the Vithura Police station on 22.07.2014 at 10.00 am for interrogation. II. In case interrogation of the petitioner 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. III. Petitioner shall co-operate with the investigation of the case. IV. In case arrest of the petitioner is recorded in Crime Nos.263 of 2014 and 503 of Bail Appl. Nos.5196 & 5197 of 2014 4 2014 of the Vithura Police station he shall be produced before the jurisdictional magistrate the same day. V. On such production learned magistrate shall release the petitioner on bail in Crime No.263 of 2014 of the Vithura Police station (if not required to be detained otherwise) on his executing bond for Rs.25,000/- (Rupees twenty five 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 investigating officer on every alternate Saturday between 03.00 p.m. and 05.00 p.m. for a period of two months or until filing of the final report, Bail Appl. Nos.5196 & 5197 of 2014 5 whichever is earlier . c) Petitioner shall report to the investigating officer as and when required for interrogation. d) Petitioner shall not get involved any offence during the period of this bail. e) Petitioner shall not influence or intimidate the witnesses. f) In case any of condition nos.(b) to (e) 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. VI. So far as Crime No.503 of 2014 of the Vithura Police station is concerned, on production before the learned magistrate, it is open to the petitioner to request for regular bail with intimation given to the Assistant Public Bail Appl. Nos.5196 & 5197 of 2014 6 Prosecutor concerned at least two working days in advance. VII. If custody of the petitioner is required (in Crime No.503 of 2014 of the Vithura Police station) for

any purpose, the investigating officer also can move application before the learned magistrate. VIII. Learned magistrate shall consider the application(s) (in Crime No.503 of 2014 of the Vithura Police station) having regard to all relevant circumstances including whether custody of the petitioner is required for any purpose and pass appropriate orders as early as possible as per the law.  
THOMAS P. JOSEPH JUDGE NS

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