

Pradeesh Vs. State of Kerala

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Court : Kerala

Decided On : Aug-18-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Pradeesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN MONDAY,THE18H DAY OF AUGUST201427TH SRAVANA, 1936 Bail Appl..No. 5368 of 2014 (A) ----- [CRIME NO.595/2014 OF KOLLENKODE POLICE STATION , PALAKKAD DISTRICT] PETITIONER/ACCUSED NO.2 (WRONGLY TYPED AS ACCUSED NO.1 IN THE CAUSE TITLE OF THE

ORDER

PASSED BY THE SESSIONS COURT, PALAKKAD:

PRADEESH, AGED24YEARS, S/O. PRABHAKARAN, CHAKKATHARA HOUSE, VAKKAVU, NENMARA, CHITTUR TALUK, PALAKKAD. BY ADV. SRI.NIREESH MATHEW. RESPONDENT/COMPLAINANT: -----
STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON1808-2014,

THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Prv.
V.K.MOHANAN, J.

----- B.A.No.5368 of 2014 ----- Dated this
the 18th day of August, 2014.

ORDER

Apprehending arrest in Crime No.595/14 of Kollenkode Police Station, the petitioner who is the 2nd accused therein preferred this application under section 438 of Cr.P.C. for anticipatory bail.

2. The prosecution allegation is that on 1.6.2014 at about 3 p.m., the accused and six identifiable persons formed themselves into an unlawful assembly at a place near Pallavoor Five Star Metals and the 1st accused assaulted the de facto complainant and when the parents of the de facto complainant attempted to prevent the said assault, the 2nd accused-the petitioner herein assaulted them by using the helmet worn by him and had also twisted the hand of the mother of the de facto complainant. Thus according to the prosecution, the accused had committed B.A.No.5368 of 2014 2 the offences punishable under sections 324, 354 r/w 149 of IPC.

3. Heard the learned counsel for the petitioner and the learned Public prosecutor.

4. The learned counsel for the petitioner vehemently submitted that the only allegation against the petitioner is that he had twisted the hand of the mother of the de facto complainant and the same is not sufficient to attract section 354 of IPC, since even according to the prosecution, there was no intention to outrage the modesty of the mother of the de facto complainant, who fell down. On the other hand, the learned Public prosecutor submitted that the custody of the petitioner requires for the purpose of investigation since the petitioner, who is the 2nd accused, is the person, who used the helmet and attacked the mother of the de facto complainant.

5. Having regard to the facts and circumstances involved in the case, though the learned Judge of the Sessions court, in his order dated 25.6.2014 stated that

B.A.No.5368 of 2014 3 interrogation of the petitioner and recovery of the helmet were highly necessary, the learned counsel for the petitioner as well as the learned Public Prosecutor submitted that the helmet in question was seized by the police by conducting search in the house of the petitioner. Therefore, the reason stated by the learned Sessions Judge vide order dated 25.6.2014 is not relevant at this stage and that is not a ground to deny anticipatory bail to the petitioner. Hence according to me, by imposing stringent conditions, this petition can be allowed, especially when the 1st petitioner was already granted bail by the Magistrate court. In the result, this petition is allowed and there will be a direction that in the event of arrest of the petitioner connected with Crime No.595/14 of Kollenkode Police Station, he shall be released on bail on his executing a bond for Rs.35,000/- with two solvent sureties each for the like amount to the satisfaction of the Investigating Officer in the above crime and on the following other conditions : B.A.No.5368 of 2014 4 1. The petitioner is directed to report before the Investigating Officer in the above Crime between 10 and 11 a.m. on Saturdays once in a fortnight.

2. The petitioner shall surrender his passport, if any, before the jurisdictional Magistrate at the time of executing the bail bond and if he is not the passport holder, he will file an affidavit to that effect in the said court. If the petitioner requires his passport, he can approach the trial court for the release of the same and in case such an application is filed, the trial court is directed to consider the same on merit guided by the decision of this Court reported in Asok Kumar v. State of Kerala [2009(2) KLT712].

3. The petitioner shall co-operate with the investigation and he shall not interfere with the same or attempt to influence the witnesses or tamper the evidence. Sd/- V.K.MOHANAN, Judge. ami/ //True copy //P.A.to Judge

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