

Javad Vs. State of Kerala

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Court : Kerala

Decided On : Oct-16-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Javad

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN THURSDAY, THE 16TH DAY OF OCTOBER 2014 24TH ASWINA, 1936 Bail Appl.No. 7105 of 2014 ----- CRIME NO. 1090/2014 OF VALAPPATANAM POLICE STATION, KANNUR PETITIONER(S)/10TH ACCUSED: ----- JAVAD, AGED 22 YEARS, S/O. ABDUL RAHMAN, MATTOOKKARAN HOUSE, MUTTOM, VENGARA P.O., KANNUR DISTRICT. BY ADV. SRI.P.G.PRAMOD RESPONDENT(S)/COMPLAINANT: ----- STATE OF KERALA, REPRESENTED BY SUB INSPECTOR OF POLICE, VALAPATTANAM POLICE STATION, KANNUR DIST. (THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.) BY PUBLIC PROSECUTOR SMT.T.Y.LALIZA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16-10-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: msv/ K. Ramakrishnan, J.

ORDER

This is an application for anticipatory bail filed by the 12th accused (wrongly shown as 10th accused in the application) in Crime No.1090/2014 of Valapattanam police station, under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in nutshell was that on 14.09.2014, the accused formed themselves into an unlawful assembly with deadly weapons with an intention to cause grievous injuries and thereby, all of them have committed the offences punishable under Sections 143, 147, 148, 149, 452, 367, 323, 324 and Section 326 read with Section 149 of the Indian Penal Code.

3. The Counsel for the petitioner submitted that the petitioner has not committed any offence and he is innocent of the same and in fact, he has been attacked by the de facto complainant and his men and another crime was registered as Crime No.576/14 including the offence under Section 308 of Indian Penal Code and in order to overcome the same, the B.A.No.7105 of 2014 :

2. : present crime has been registered and he prayed for allowing the application.

4. The application was opposed by the Public Prosecutor on the ground that none of the accused persons are arrested in both the cases and the presence of the petitioner is required for proper investigation.

5. Heard both sides and perused the records.

6. It is seen from the records that the above case was registered on the basis of the complaint filed by one Pathumma alleging that her son has been attacked by the sand mafia and gave complaint against 11 persons in respect of that incident before District Police Chief which was forwarded to the concerned police station and accordingly, the case was originally registered as Crime No.1090/2014 of Valapattanam police station under Sections 143, 147, 323, 367 read with Section 149 of Indian Penal Code. Thereafter, during investigation, it was revealed that

offence under Sections 324, 326 were also committed and same were also included and apart from the persons mentioned in the complaint, some others including the present petitioner had involved and his name was also added as 12th accused. It is also in a way B.A.No.7105 of 2014 :

3. : admitted that petitioner also sustained some injuries and in respect of that incident, another crime was registered as Crime No.576/14 for offences including offence under Section 308 of Indian Penal Code. It is also revealed from the submission made by the Public Prosecutor that none were arrested in connection with both the cases. So, considering the gravity of the offence and also the manner in which it was said to have been committed and also the nature of persons involved on the basis of the allegations in the complaint, this court feels that it is not a fit case to grant anticipatory bail invoking the extraordinary power under Section 438 of Code of Criminal Procedure. The petitioner can very well either surrender before the investigating officer or before the concerned magistrate court and move for regular bail. So, the petitioner is not entitled to get anticipatory bail and the application is liable to be rejected. In the result, the application is rejected. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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