

Biju Vs. State of Kerala

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Court : Kerala

Decided On : Oct-30-2014

Judge : Honourable Mr. Justice B.Kemal Pasha

Appellant : Biju

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE B.KEMAL PASHA THURSDAY, THE 30TH DAY OF OCTOBER 2014 8TH KARTHIKA, 1936 Bail Appl..No. 7480 of 2014 ----- CRIME NO. 334/2014 OF NEMOM POLICE STATION , THIRUVANANTHAPURAM PETITIONER/ACCUSED: ----- BIJU, AGED 32 YEARS S/O. RAJAPPAN, KANNDIKUZHY VEEDU, EDACODEM NEMOM P.O THIRUVANANTHAPURAM BY ADV. SRI.A.N.RAJAN BABU RESPONDENTS: ----- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM, 682013 2. THE SUB INSPECTOR OF POLICE, NEMOM POLICE STATION, NEMOM, THIRUVANANTHAPURAM 69500 R BY PUBLIC PROSECUTOR, SRI SREEJITH V.S. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30-10-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: B.KEMAL PASHA, J.

- - - Dated this the 30th day of October, 2014

ORDER

Petition under Section 438 Cr.P.C.

2. Petitioner is the accused in Crime No.334 of 2014 of the Nemom Police Station, Thiruvananthapuram, registered for the offence punishable under Section 308 of the Indian Penal Code.

3. The allegation against the petitioner is that on 3.3.2014 at 3 p.m., the petitioner who is a coconut climber, after plucking coconuts from the coconut trees of the de-facto complainant, demanded an amount of 10,000/- by stating that the de-facto complainant could put up the building in the property only on the payment of such an amount. When the de-facto complainant refused to make the payment, immediately the petitioner took the chopper and inflicted a cut on the head of the de-facto complainant. Even though the de-facto complainant evaded it, the B.A.7480 of 2014 2 cut fell on his head, thereby causing a serious injury.

4. Heard learned counsel for the petitioner and learned Public Prosecutor. It seems that on a previous occasion also, the petitioner had unsuccessfully approached this court for anticipatory bail through B.A. No.2631 of 2014. The learned counsel for the petitioner has pointed out that at that time, the petitioner was not aware of the fact that the de-facto complainant had been treated at the hospital only for one day.

5. On a perusal of the C.D., I could see the wound certificate, which reveals that the de-facto complainant has sustained "a cut injury on the scalp straight at mid line, about 7 c.ms. long and 3 m.m. Deep. Wound clean cut". Considering the seriousness of the injuries, it cannot be argued that an offence under Section 308 of the Indian Penal Code, cannot be attracted. Considering the seriousness of the allegations against the petitioner, the injuries sustained by the de-facto complainant, and B.A.7480 of 2014 3 the present stage of investigation, I am satisfied that this is a fit case wherein the custodial interrogation of the petitioner is required for the continued investigation of the case. Matters being so, I am of the

view that the petitioner is not entitled to the discretionary relief of anticipatory bail.
In the result, this Bail Application is dismissed. Sd/- (B.KEMAL PASHA, JUDGE) dl
// True Copy // PA to Judge

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