

Akhil, vs State of Kerala,

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Court : Kerala

Decided On : Mar-01-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./1355/2024

Appellant : AKHIL,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 1ST DAY OF MARCH 2024 / 11TH PHALGUNA, 1945 BAIL APPL. NO. 1355 OF 2024 CRIME NO.6/2024 OF KATTOOR POLICE STATION, THRISSUR PETITIONERS/ACCUSED 3 AND 4: 1 AKHIL, AGED 29 YEARS S/O ANIL , PUTHUVEETIL HOUSE, PERINGAVU DESOM, CHEMBOOKKAVU VILLAGE , THRISSUR TALUK, THRISSUR DISTRICT, PIN - 680020 2 ROHITH, AGED 23 YEARS S/O MOHANAN , KALAKKATTIL HOUSE, PERINGAVU DESOM, CHEMBOOKKAVU VILLAGE , THRISSUR TALUK, THRISSUR DISTRICT, PIN - 680020

BY ADV M.J.POLLY RESPONDENT/STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN -

682031 BY SR PP SMT NEEMA T V THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Dated this the 1st day of March, 2024

ORDER

This application is filed under Section 439 of the

Code of Criminal Procedure, 1973, by the accused 3 and 4 in Crime No.06/2024 of the Kattoor Police Station, Thrissur, registered against the accused (six in number) for allegedly committing the offences under Sections 143, 147, 148, 341, 323, 324 and 308 r/w Section 149 of the Indian Penal Code. The petitioners were arrested on 06.02.2024.

2. The gist of the prosecution case is that; On

01.01.2024 at about 1.00 hours, the accused, in prosecution of their common intention and out of their previous animosity with the injured, formed themselves into an unlawful assembly armed with an iron pipe and a sword, and the first accused brandished the sword towards the first informants neck, which resulted in a grave injury on the left side of his head. The second accused hit the first informant on his right knee with the iron pipe. The other accused kicked the friends of the first informant and caused injuries to them. Thus, the accused have committed the above offences.

3. Heard Sri. Poly. M. J, learned counsel appearing for the petitioners and Smt. Neema T.V. the learned Senior Public Prosecutor appearing for the respondent.

4. The learned counsel for the petitioners

submitted that the petitioners are totally innocent of the accusations levelled against them. They have been falsely implicated in the crime. A reading of the First Information Report would substantiate that there is no specific overt act alleged against the petitioners for causing the grievous injuries to the first informant and his friends. At any rate, the petitioners have been in judicial custody since 06.02.2024, recoveries have been effected, and the investigation in the

case, so far as the petitioners are

concerned, is practically complete. Therefore, the petitioners further detention is not necessary. Hence, the petitioners may be released on bail.

5. The learned Public Prosecutor vehemently

opposed the application. She contended that the investigation in the case is still in progress. She made available the Accident Register-cum-Wound Certificate of the injured (five in number) to substantiate the nature of the injuries sustained by each of the injured at the hands of the accused. She also contended that if the petitioners are released on bail, they would intimidate the witnesses and tamper with the evidence, especially since the petitioners are persons with criminal antecedents. Hence, the application may be dismissed.

6. The petitioners had moved before the Jurisdictional

Magistrate by filing an application under Section 437 of the Code, which was dismissed on 13.02.2024, on the finding that the injured were under treatment in the hospital, including in the Intensive Care Unit.

7. On an appreciation of the materials placed on

record, prima facie it can be gathered that it was the accused 1 and 2 who caused the grievous injuries to the five injured, and the petitioners allegedly assaulted the injured with their hands. Therefore, I am prima facie of the opinion that the offence under Section 308 may not be attracted. Nonetheless, since the petitioners have

been in judicial custody from 06.02.2024, that the investigation in the case, so far as the petitioners are concerned, is practically complete and the recoveries have been effected, I hold that the petitioners further detention is unnecessary. Hence, I am inclined to allow the bail application, but subject to stringent conditions.

In the result, the application is allowed, by directing the petitioners to be released on bail on them executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties each for the like sum, to the satisfaction of the court having jurisdiction, which shall be subject to the following conditions:

(i) The petitioners shall appear before the

Investigating Officer on every Saturday between 9 a.m. and 11 a.m for a period of two months or till the final report is laid, whichever is earlier. They shall also appear before the Investigating Officer as and when required;

(ii) The petitioners shall not directly or indirectly

make any inducement, threat or procure to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any Police Officer or tamper with the evidence in any manner, whatsoever;

(iii) The petitioners shall not commit any offence while they are on bail;

(iv) The petitioners shall surrender their passports,

if any, before the court below at the time of execution of the bond. If they have no passports, they shall file an affidavit to the effect before the court below on the date of execution of the bond;

(v) The petitioners shall not leave the territorial jurisdiction of the Court of Session, Thrissur, until the final report is filed, without the previous permission of the court below.

(vi) In case of violation of any of the conditions

mentioned above, the jurisdictional court shall be empowered to consider the application for cancellation of bail, if any filed, and pass orders on the same, in accordance with law.

(vii) Applications for deletion/modification of the bail conditions shall be moved and entertained by the court below. (viii) Needless to mention, it would be well within

the powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioners even while the petitioners are on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State (NCT of Delhi)* and another [2020 (1) KHC 663]. Sd/- C.S.DIAS,

JUDGE mtk/01.03.24 APPENDIX OF BAIL APPL. 1355/2024 PETITIONER
ANNEXURES Annexure A1 THE DISMISSED ORDER OF THE JFCM COURT,
IRINJALAKKUDA IN CRL. MP NO. 1012/ 2024 DATED 13-02-2024

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