

Kushal Kumar vs State of Kerala

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Court : Kerala

Decided On : Mar-05-2024

Judge : Honourable Mrs. Justice Sophy Thomas

Appeal No. : Bail Appl./1399/2024

Appellant : Kushal Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
TUESDAY, THE 5TH DAY OF MARCH 2024 / 15TH PHALGUNA, 1945
BAIL APPL. NO. 1399 OF 2024 CRIME NO.1156/2023 OF Puthencruz
Police Station, Ernakulam PETITIONER KUSHAL KUMAR AGED 46
YEARS S/O KUNJAN, THRITHALA HOUSE, THIRUVANIYOOR KARA,
THIRUVANIYOOR VILLAGE, KUNNATHUNADU THALUK,
PRESENTLY RESIDING AT KAKKATTIL HOUSE, HOUSE NO.4/404,
THIRUVANIYOOR PO, ATHANI, ERNAKULAM, PIN - 682308 BY ADVS.
R.REJI KUMAR P.R.JAYAKRISHNAN RESPONDENT: STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT
OF KERALA, PIN - 682031 OTHER PRESENT: SR.PP-SRI.RENJIT

GEORGE THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973, filed by the 1 st accused in Crime No.1156 of 2023 of Puthencruz Police Station, Ernakulam, registered under Sections 294(b), 323 and 341 read with Section 34 of IPC and Section 31(1) of DV Act.

2. The prosecution allegation is that, the petitioner and

his mother, who is the 2nd accused, abused and assaulted the defacto complainant on 12.12.2023 at 8.00 p.m, and the 2 nd accused wrongfully restrained her, and thus both of them violated the protection order issued from Grama Nyayalaya, Vadavucode.

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

4. Learned Public Prosecutor opposed the bail application

5. Learned counsel for the petitioner would submit that

the defacto complainant was only a helper, to look after the second accused-mother, who was aged 72 years. The allegations of abuse and assault made by the defacto complainant are absolutely false, and they never violated the protection order issued by the Grama Nyayalaya.

6. The only non bailable offence alleged is under

Section 31(1) of the DV Act. According to the petitioner, the defacto complainant was only a domestic help to look after the 2nd accused/mother. No criminal antecedents are reported against this petitioner.

7. Considering the factual situations pleaded by the

petitioner, this Court of the view that custodial interrogation of the petitioner is not required in this case. Hence, this Court is inclined to allow this petition on the following terms:-

(i) The petitioner is directed to surrender before the

investigating officer on or before 12.03.2024 and subject himself for interrogation. The investigating officer shall interrogate him to collect all materials and evidence relevant for the purpose of

(ii) In the event of arrest, the petitioner shall be released on bail on executing bond for Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the arresting officer.

(iii) The petitioner shall appear before the

investigating officer as and when directed. (iv). The petitioner shall not influence or intimidate the witnesses or tamper with the (v). The petitioner shall not commit any offence while on bail. (vi). In case of violation of any of these conditions, the trial court is empowered to cancel his bail, in accordance with law. Sd/- SOPHY THOMAS JUDGE smm

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