

Lalkrishna E.a vs State of Kerala

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Court : Kerala

Decided On : Mar-12-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./1523/2024

Appellant : Lalkrishna E.a

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY,
THE 12TH DAY OF MARCH 2024 / 22ND PHALGUNA, 1945 BAIL
APPL. NO. 1523 OF 2024 CRIME NO.1205/2023 OF Narakkal Police
Station, Ernakulam PETITIONER/S: LALKRISHNA E.A AGED 28
YEARS ERIMAL HOUSE, POOPATHY P.O, POYYA, THRISSUR, PIN -
BY ADVS. DEEPAK MOHAN V.S.ANU MON

RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA , ERNAKULAM, PIN - 682031
OTHER PRESENT: Sr PP Smt Seetha S THIS BAIL APPLICATION HAVING
COME UP FOR ADMISSION ON 12.03.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: C.S.DIAS,J =====

----- Dated this the 12th day of March, 2024

ORDER

The application is filed under Section 439 of the Code of Criminal Procedure, 1973, by the third accused in crime No.1205/2023 of the Njarakkal Police Station, Ernakulam, registered against the accused (three in number), for allegedly committing the offences punishable under Secs.420, 468 read with Sec.34 of the Indian Penal Code and Secs.10 and 24(I) (b) of Immigration Act, 1983. The petitioner was arrested on 9.2.2023.

2. The crux of the prosecution case is that: the accused in furtherance of their common intention to cheat the husband of the de facto complainant had received Rs.8,35,000/- from him assuring him an employment in

France. However, they have issued a fake Visa to the husband of the de facto complainant, who travelled with the said document and was intercepted by the Emigration officials at the New Delhi airport and was remanded to judicial custody. The accused have not returned the said amount. In the investigation, it is revealed that the first accused received Rs.85,000/-, the second accused received Rs.4.5/- Lakh and the third accused received Rs.3/- Lakh

out of the above said amount. Thus, the accused have committed the above offences.

3. Heard; Sri.Deepak Mohan, the learned counsel appearing for the petitioner and Smt.Seetha.S, the learned Public Prosecutor.

4. The learned counsel for the petitioner submitted

that the petitioner is totally innocent of the accusations levelled against him. The offences were committed by the accused 1 and 2 who received the said amount and assured the husband of the de facto complainant an employment abroad. Notwithstanding the other contentions raised in the application, the petitioner has been in judicial custody since 9.2.2023, the investigation in the case is practically complete and recovery has been effected. Moreover, the first accused has been

released on bail by the Court of Session, Ernakulam, as per the order in Crl.M.C 3466/2023. Hence, the petitioner may be released on bail.

5. The learned Public Prosecutor seriously opposed the application. She contended that there is a specific overt

act alleged against the petitioner. The petitioner has also shared the money that was deceitfully received from the husband of the de facto complainant. If the petitioner is released on bail, there is every likelihood of him sabotaging the investigation. Hence, the application may be dismissed.

6. The crux of the prosecution allegation against the

petitioner is that, in furtherance of his common intention with the accused 1 and 2, the accused cheated the husband of the de facto complainant by assuring him an employment abroad and, thereafter, gave him a fake Visa, which resulted in him being arrested by the Emigration authorities. The petitioner also received a portion of the amount that was misappropriated.

7. After bestowing my anxious consideration to the

facts, rival submission made across the Bar, the materials placed on record, especially taking into consideration the fact that the petitioner has been in judicial custody since 9.2.2023, that the investigation in the case is practically complete, that the recovery has been effected and that the first accused has been enlarged on bail by the Court of Session, Ernakulam, as per the order in Crl MC 3466/2023 , I am of the view that the petitioners continued detention is

unnecessary. Hence, I am inclined to allow the bail application. In the result, the application is allowed, by directing the petitioner to be released on bail on him executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) 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 petitioner shall appear before the Investigating

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

(ii) The petitioner 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 petitioner shall not commit any offence while he is on bail;

(iv) The petitioner shall surrender his passport, if any,

before the court below at the time of execution of the bond. If he has no passport, he shall file an affidavit to the effect before the court below on the date of execution of the bond;

(v) The petitioner shall furnish his present address and permanent address, and his mobile phone number to the court below and the Investigating Officer;

(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 petitioner even while the petitioner is 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/-
sks/12.3.2024 C.S.DIAS, JUDGE