

Firoz vs State of Kerala

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Court : Kerala

Decided On : Jan-11-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./10665/2023

Appellant : FIROZ

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS THURSDAY,
THE 11TH DAY OF JANUARY 2024 / 21ST POUSHA, 1945 BAIL APPL.
NO. 10665 OF 2023 CRIME NO.1256/2023 OF PAYYANNUR POLICE
STATION, KANNUR PETITIONER/ACCUSED:

FIROZ AGED 45 YEARS S/O. NARAYANAN, KOKADAV HOUSE, PO.
EDACHAKAIR, UDINOOR VILLAGE, KASARAGOD DISTRICT, PIN -
671310 BY ADVS. M.V.AMARESAN S.S.ARAVIND
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031
SR PP SMT NEEMA T V THIS BAIL APPLICATION HAVING COME UP
FOR ADMISSION ON 11.01.2024, THE COURT ON THE SAME DAY

DELIVERED THE FOLLOWING: -:2:-

ORDER

Dated this the 11th day of January, 2024 The application is filed under Section 438 of the Code of Criminal Procedure, 1973, for an order of pre-arrest bail.

2. The petitioner is the sole accused in Crime

No.1256/2023 of Payyannur Police Station, Kannur, registered against him for allegedly committing the offence punishable under Section 420 of the Indian Penal Code.

3. The prosecution case, in short, is that; the

defacto complainant had entered into an agreement with the accused to sell a property to the accused after accepting Rs.23 lakh in cash and by exchanging a property having an extent of 1 acre and 15 cents. Acting on the said agreement, the defacto complainant transferred 5 cents of land in favour of one Jayarajan, -:3:- as instructed by the accused. However, the accused had failed to pay Rs. 23 lakh or assign the 1 acre and 15 cents of land as undertaken in the agreement. Thus, the accused has committed the above offences.

4. Heard; Sri.M.V. Amaresan, the learned counsel appearing for the petitioner and Smt. Neema.T.V., the learned Senior Public Prosecutor appearing for the respondent.

5. The learned counsel for the petitioner submitted that the petitioner is totally innocent of the accusation levelled against him. Even going by Annexure A1 FIR, the transaction is purely civil in

nature. At any rate, the petitioners custodial interrogation is not necessary. He is willing to abide by any stringent condition that may be imposed by this Court. Hence, the petitioner may grant an order of pre-arrest bail.

6. The learned Public Prosecutor opposed the -:4:- application. She conceded to the fact that the parties

have entered into Annexure A2 agreement, the transaction is civil in nature and the petitioners custodial interrogation is not necessary. However, the petitioner may be directed to cooperate with the Investigation Officer.

7. On an anxious consideration of the materials placed on record and after perusing Annexure A2 agreement, I am prima facie of view that the transaction between the petitioner and the defacto complainant is civil in nature, for which the custodial interrogation of the petitioner is not necessary. Therefore, the petitioner is entitled to an order of pre- arrest bail.

In the result, the application is allowed subject to the following conditions: -:5:- i) The petitioner is directed to surrender before the Investigating Officer within ten days from today. ii) In the event of the petitioners arrest, the Investigating Officer shall produce him before the jurisdictional court on the date of surrender itself. iii). On such production, the jurisdictional court shall release the petitioner on bail on him executing a bond for Rs.50,000/- (Rupees fifty thousand only), with two solvent sureties for the like amount each, to the satisfaction of the jurisdictional court; iv). The petitioner shall co-operate with the investigation and make himself available for interrogation and for the purpose of investigation as and when the Investigating Officer directs; v). The petitioner shall not intimidate witnesses or interfere with the investigation in any manner; vi). The petitioner shall not get involved in any other offence while on bail. -:6:- vii). 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.

viii). Applications for deletion/modification of the bail conditions shall be filed and entertained before the court below. Sd/- C.S.DIAS,JUDGE mtk/11.01.24 -:7:- APPENDIX OF BAIL APPL. 10665/2023 PETITIONER ANNEXURES Annexure 1 TRUE COPY OF FIR IN CRIME NO. 1256/2023 OF PAYYANUR POLICE STATION DATED Annexure 2 . TRUE COPY OF THE AGREEMENT DATED