

Muhammad Sameer, vs State of Kerala,

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Court : Kerala Orders

Decided On : Jan-05-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./11438/2023

Appellant : Muhammad Sameer,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 5TH DAY OF JANUARY 2024 / 15TH POUSHA, 1945 CRIME NO.823/2023 OF Thrikkunnappuzha Police Station, Alappuzha PETITIONER/S: MUHAMMAD SAMEER, AGED 21 YEARS MUHAMMAD SAMEER, S/O. ABDUL BASHEER, KAIPLATHU, PATHIYANKARA, THRIKKUNNAPPUZHA, ALAPPUZHA, PIN - 690515 BY ADVS. SURESH JOSEPH VIDHU C. SANALKUMAR.B LEKHAMOLE P.N. RESPONDENT/S: 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 STATION HOUSE OFFICER, THRIKKUNNAPPUZHA POLICE STATION, ALAPPUZHA DISTRICT,

PIN - 690515 OTHER PRESENT: PP SRI M P PRASANTH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

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 3rd accused in Crime

No.823/2023 of the Thrikkunnappuzha Police Station, Alappuzha registered against the accused (three of them) alleging them to have committed the offences punishable under Sections 323, 324, 326, 427 read with Section 34 of the Indian Penal code.

3. The prosecution case, in brief, is that: on

02.12.2023 at about 10.30 p.m., the 1st accused had attacked the defacto complainant with a helmet and an iron rod and his little finger got fractured. The accused 2 and 3 also attacked the friends of the defacto complainant. Thus, the accused have committed the above offences.

4. Heard; Sri.Suresh Joseph, the learned counsel appearing for the petitioner and Sri.Prasanth M.P., the learned Public Prosecutor appearing for the respondents.

5. The learned counsel for the petitioner submitted

that the petitioner is absolutely innocent of the accusations leveled against him. The petitioner is only a 21 year old student and he has been falsely implicated in the crime. The petitioner is willing to co-operate with the Investigating Officer and prepared to abide by any stringent conditions imposed by this Court. Hence, the application may be allowed.

6. The learned Public Prosecutor vehemently

opposed the application. He contended that the investigation is only at its preliminary stage. The petitioner had also caused injuries to the defacto complainant. The petitioner's custodial interrogation is necessary for the proper investigation of the case. Hence, the bail application may be dismissed.

7. On an overall consideration of the materials

placed on record, particularly taking into account the gravity of the accusation leveled against the petitioner, that the investigation is only at the nascent stage and the custodial interrogation of the petitioner is necessary, I do not find any cogent ground entitling the petitioner to an order of pre-arrest bail.

8. Consequentially, the bail application is dismissed. Nonetheless, it is directed that, if the petitioner

surrenders before the Investigating Officer within ten days from today, he shall be interrogated by the Investigating Officer and, thereafter, be produced before the jurisdictional Magistrate from the date of surrender itself. If the petitioner moves for bail, the court below, shall, consider the bail application on merit and as expeditiously as possible. If the petitioner fails to surrender before the Investigating Officer, as directed above, the Investigating Officer will be at liberty to arrest the petitioner, as if no direction is passed.

Sd/- C.S.DIAS JUDGE rkc/05.01.24 APPENDIX OF BAIL APPL. 11438/2023
PETITIONER ANNEXURES Annexure A-1 THE TRUE COPY OF THE ORDER IN
CRL. M.P. NO.6088/2023 DATED 19.12.2023

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