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Rahul vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-10-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./11628/2023

Appellant : RAHUL

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY, THE 10TH DAY OF JANUARY 2024 / 20TH POUSHA, 1945 BAIL APPL. NO. 11628 OF 2023 CRIME NO.1361/2023 OF KORATY POLICE STATION, THRISSUR PETITIONERS/ACCUSED 1,3, 4, 6 AND 7:

1 RAHUL AGED 29 YEARS S/O.SASI, AMBATTUPARAMBIL HOUSE, MELOOR DESOM, MELOOR VILLAGE, 2 MITHUN AGED 36 YEARS S/O MOHANAN K.K, KALAPURAKKAL HOUSE, ANCHERY DESAM, ANCHERY P.O, THRISSUR TALUK, THRISSUR DISTRICT,, PIN - 680006 3 ANWIN AGED 31 YEARS S/O.BHASI, THEKKOODAN HOUSE, MELOOR DESOM, MELOOR VILLAGE, 4 ANANTHU AGED

24 YEARS S/O. BABU, VALIYOLIPARAMBIL HOUSE, MOOKKANNOOR DESAM, KARAMATTOM THAMBORE P.O, ALUVA TALUK, ERNAKULAM DISTRICT,, PIN - 683577 5 ATHUL AGED 25 YEARS S/O.ACHUTHAN, CHAMATHURUTHY HOUSE, KARAMATTOM DESOM, MOOKKANNOOR P.O., ERNAKULAM DISTRICT,, PIN - 683577 BY ADVS. N.L.BITTO MITHUL T ANTO

RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - OTHER PRESENT: SR PP SRI C S HRITHWIK THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O R D E R

The application is filed under Section 438 of the Code of Criminal Procedure, 1973, for an order of pre-arrest bail.

2. The petitioners are the accused 1, 3, 4, 6 & 7 in Crime

No.1361/2023 of the Koraty Police Station, Thrissur, registered against the accused (7 in number) alleging them to have committed the offences punishable under Sections 341, 323, 324, 294(b) & 308 of the Indian Penal Code.

3. The prosecution case, in brief, is that: on 25.12.2023 at

about 2.00 a.m, the accused formed into an unlawful assembly, abused the defacto complainant and assaulted him with a stick, causing an injury on his head. Thus, the accused have committed the above offences.

4. Heard Sri.N.L.Bitto, learned counsel appearing for the petitioners and Sri.C.S.Hrithwik, the learned Public Prosecutor appearing for the respondent.

5. The learned counsel appearing for the petitioners submitted that the petitioners are totally innocent of the accusations levelled against them. It was the second accused,

who caused the injury on the defacto complainant by hitting him with a wooden stick. The petitioners have no complicity in the matter. The petitioners' custodial interrogation is not necessary. The petitioners are willing to abide by any stringent condition imposed by this Court. Hence, the application may be allowed.

6. The application is opposed by the learned Public

Prosecutor. He submitted that, the petitioners formed an unlawful assembly and the second accused hit the defacto complainant with a stick. The accident-cum-wound certificate shows that the defacto complainant has sustained a deep injury on his head. The custodial interrogation of the petitioners is absolutely necessary for a proper investigation in the crime. Hence, the application may be dismissed.

7. On an appreciation of the materials placed on record

and the rival submissions made across the Bar, I am of the definite view that the custodial interrogation of the petitioners are necessary for the proper investigation of the case. Taking into account the gravity and seriousness of the accusations levelled against the petitioners, I hold that, this is not a fit case to exercise the discretionary powers of this Court under Section 438 of the Code. Therefore, I am not inclined to grant an order of

pre-arrest bail to the petitioners.

8. Nonetheless, I direct that, in the event of the

petitioners surrendering before the Investigating Officer within 10 days from today, they shall be interrogated and, thereafter, they be produced before the jurisdictional Court on the date of surrender itself. Then, if the petitioners move an application for

bail, the jurisdictional Court shall, untrammelled by any observations in this order, consider the bail application on its merits and as expeditiously as possible. If the petitioners do not surrender before the Investigating Officer as directed above, the Investigating Officer shall be free to arrest the petitioners as if no

order has been passed in this case.

Sd/- C.S.DIAS JUDGE shg

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