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Adith P D vs State of Kerala

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Court : Kerala

Decided On : Apr-23-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./3159/2024

Appellant : Adith P D

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 BAIL APPL. NO. 3159 OF 2024 CRIME NO.142/2024 OF Mannuthy Police Station, Thrissur AGAINST THE ORDER/JUDGMENT DATED IN Bail Appl. NO.1340 OF 2024 OF HIGH COURT OF KERALA PETITIONER(S)/2ND ACCUSED: ADITH P D AGED 21 YEARS S/O P.K DEVARAJ, PULIKKAL HOUSE, NADATHARA ROAD, MANNUTHY P.O, THRISSUR, PIN - 680651 BY ADVS. VISHNU BHUVANENDRAN B.ANUSREE ASWIN NANDA A. ABHILASH C.V. VARUN JACOB

RESPONDENT(S): STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 BY ADV:

SRI C. S. HRITHWIK, SR PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A. NO. 3159 OF 2024 -2-

ORDER

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

2. The petitioner is the second accused in Crime

No.142 of 2024 of the Mannuthy Police Station, Thrissur registered against the accused (four in number) for allegedly committing the offences punishable under Sections 341, 323, 326, 308 and 324 r/w Section 34 of the Indian Penal Code.

3. The gist of the prosecution case is that: on 13.02.2024 at about 10.45 p.m., the accused, in furtherance of their common intention and out of

previous animosity with the defacto complainant, assaulted the defacto complainant and one Prasanth (injured), who were the President and Secretary of the temple committee respectively. Thus, the accused have committed the above offences. B.A. NO. 3159 OF 2024 -3-

4. Heard; Sri. Vishnu Bhuvanendran, the learned counsel appearing for the petitioner and Sri.C.S.Hrithwik, the learned Senior Public Prosecutor.

5. The learned counsel for the petitioner submitted that the petitioners are totally innocent of the accusations levelled against them. He has been falsely

implicated in the crime. Eventhough, this Court has dismissed the petitioners earlier application for a similar relief by Annexure A5 order, the first accused has already been enlarged on bail by the court of Session. Therefore, the petitioners custodial interrogation is not necessary. Hence, the present application may be allowed.

6. The learned Public Prosecutor opposed the application. He submitted that there is no change of circumstances subsequent to the passing of Annexure A5

order. The present application is nothing but anattempted

dismissal of Annexure A5 order. There are specific overt acts alleged against the petitioner for having inflicted the grievous injuries on the injured. The petitioners custodial interrogation is necessary and recovery is to be effected. Therefore, the application may be dismissed with cost.

7. On an evaluation of the materials on recorded

it can be gathered that, by Annexure A5 order, this Court had dismissed the petitioners earlier application for the same relief on the finding that, prima facie there are incriminating material to show the involvement of the petitioner for inflicting a grievous injury on the de facto complainant by hitting with an iron rod. Notwithstanding, the findings in the above order, the present application is filed, without any change of circumstances. On an overall consideration of the facts, the materials on record and the rival submissions made B.A. NO. 3159 OF 2024 -5- across the Bar, I am of the firm view that the present application is devoid of any merits and a sheer abuse of the process of law. Resultantly, the application is dismissed. Sd/- C.S.DIAS JUDGE vv B.A. NO. 3159 OF 2024 -6- APPENDIX OF BAIL APPL. 3159/2024 PETITIONER ANNEXURES ANNEXURE-I TRUE COPY OF FIR IN CRIME NO. POLICE STATION, THRISSUR

ANNEXURE-II TRUE COPY OF THE MEDICAL CERTIFICATE

INSTITUTE, THRISSUR ANNEXURE-III TRUE COPY OF FIR IN CRIME NO. POLICE STATION, THRISSUR ANNEXURE-IV TRUE COPY OF ORDER DATED 06.03.2024 IN CRL MC NO. 313/2024 OF SESSIONS JUDGE, THRISSUR ANNEXURE-V TRUE COPY OF THE ORDER IN BAIL APPLICATION NO. 1340/2024 DATED 23.02.2024 OF THIS HONOURABLE COURT ANNEXURE 6 ORDER DATED 23-02-2024 IN BAIL APPL.1340/2024 ON HIGH COURT

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