

Ramkumar vs State of Kerala

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Court : Kerala

Decided On : Apr-25-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Bail Appl./3427/2024

Appellant : Ramkumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS THURSDAY, THE 25TH DAY OF APRIL 2024 / 5TH VAISAKHA, 1946 BAIL APPL. NO. 3427 OF 2024 CRIME NO.198/2024 OF VANDIPERIYAR POLICE STATION, IDUKKI AGAINST THE ORDER DATED 15.04.2024 IN CRMC NO.275 OF 2024 OF DISTRICT COURT & SESSIONS COURT, THODUPUZHA PETITIONERS: 1 RAMKUMAR AGED 32 YEARS S/O RAMAKRISHNAN, RAMBHAVAN HOUSE MANJUMALA LD BHAGOM, VANDIPERIYAR KARA, MANJUMALA VILLAGE, IDUKKI., PIN - 685553 2 PRAVEEN AGED 35 YEARS S/O MARIYAPPAN, MANJUMALA, PAZHAYAKADU BHAGOM, VANDIPERIYAR KARA, MANJUMALA VILLAGE, IDUKKI, PIN - 685553

BY ADVS. N.K.SHYJU GIREESH PANKAJAKSHAN VISHNU MOHAN SAHLA NECHYIL ATHIRA PADMENDHU RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 OTHER PRESENT: SR PP SRI C S HRITHWIK THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:- Dated this the 25th day of April, 2024

ORDER

The application is filed under Section 439 of the

Code of Criminal Procedure, 1973, by the accused Nos.3 & 4 in Crime No.198/2024 of the Vandiperiyar Police Station, Idukki, registered against the accused for allegedly committing the offences punishable under Sections 294(b), 341, 324, 326 & 307 read with Section 34 of the Indian Penal Code, 1860 (IPC, for short). The petitioners were arrested on 14.03.2024.

2. The gravamen of the prosecution case is that: on 11.03.2024, at around 23.30 hours, the accused, in furtherance of their common intention, wrongfully restrained the de-facto complainant and the second accused uttered obscene words at him, and threatened to murder him. Thereafter, the accused dragged the de-facto complainant outside his house; the second accused held his hands and the first accused -:3:- brandished a sickle and hit him on his head. The second accused also hit him with an iron rod, and he suffered serious injuries. The other accused assisted the accused Nos.1 & 2 to inflict the injuries. Thus, the accused have committed the above offences.

3. Heard; Sri. N.K. Shyju, the learned counsel appearing for the petitioners and Sri. C. S. Hrithwik, the learned Senior Public Prosecutor.

4. The learned counsel for the petitioners

submitted that the petitioners are totally innocent of the accusations levelled against them. A reading of the First Information Report would substantiate that the

specific overt act is alleged against the accused Nos.1 & 2. The only allegation against the petitioners is that they assisted the accused Nos.1 & 2 to inflict injuries on the de-facto complainant. Therefore, the offences under Sections 326 & 307 of the IPC cannot be attributed against the petitioners. In any given case, -:4:- the petitioners have been in judicial custody for the last 40 days, the investigation in the case is complete, and recovery has been effected. Therefore, the petitioners further detention is unnecessary. Hence, the application may be allowed.

5. The learned Public Prosecutor opposed the

application. He submitted that the investigation is in progress. He also stated that if the petitioners are let off on bail, they would torpedo the entire investigation and intimidate the witnesses. Nonetheless, he did not dispute the fact that the petitioners have been in judicial custody for the last 40 days and have no criminal antecedents.

6. On an evaluation of the materials on record, it

can be deduced that, it was the accused Nos.1 & 2 who allegedly inflicted injuries on the de-facto complainant. The allegation against the petitioners is that they assisted the accused Nos.1 & 2. The fact remains that -:5:- the accused have been in judicial custody for the last 40 days and there is also no material to show that they have any criminal antecedents.

7. It is well settled in Hussainara Khatoon

(I) v. Home Secy., State of Bihar [(1980) 1 SCC 81], that merely because a person has an antecedent, the same shall not be treated as a ground to deny bail to that person.

8. In Sanjay Chandra v. CBI [2012 1 SCC 40],

the Honourable Supreme Court has categorically held

that the fundamental postulate of criminal jurisprudence is the presumption of innocence, until a person is found guilty. Any imprisonment prior to conviction is to

be considered as punitive and it would be improper on the part of the Court to refuse bail solely on the ground of former conduct.

9. In *Dataram Singh v. State of U.P.* [(2018) 3 SCC 22] the Honourable Supreme Court observed that -:6:-

grant of bail is the rule and putting a person in jail is an exception. Even though the grant of bail is entirely the discretion of the court, it has to be evaluated based on the facts and circumstances of each case and the discretion has to be exercised in a judicious and compassionate manner.

10. The principle that bail is the rule and jail is

an exception is on the touch stone of Article 21 of the Constitution of India. Once the charge sheet is filed, a strong case has to be made out for continuing a person in judicial custody. The right to bail cannot be denied merely due to the sentiments of the society.

11. On an anxious consideration of the facts, the

rival submissions made across the Bar, and the materials placed on record, particularly taking into consideration the fact that the petitioners have been in judicial custody for the last 40 days, the investigation in the case is complete, and recovery has been -:7:- effected, I am of the definite view that the petitioners further detention is unnecessary. Hence, I am inclined to allow the bail application, but subject to stringent conditions. In the result, the application is allowed, by directing the petitioner to be released on bail on them executing a bond for Rs.1,00,000/- (Rupees one lakh only) each 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 petitioners shall appear before the

Investigating Officer on every Saturday between 9 a.m. and 11 a.m till the final report is laid. They shall also appear before the Investigating Officer as and when required;

(ii) The petitioners 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 :-8:-

the court or to any Police Officer or tamper with the evidence in any manner, whatsoever; (iii)The petitioners shall not commit any offence while they are on bail;

(iv) The petitioners shall surrender their passports, if

any, before the court below at the time of execution of the bond. If they have no passports, they shall file affidavits to the effect before the court below on the date of execution of the bond;

(v) 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.

(vi) Applications for deletion/modification of the bail conditions shall be moved and entertained by the court below.

(vii) Needless to mention, it would be well within the :-9:-

powers of the Investigating Officer to investigate the matter and, if necessary, to effect recoveries on the information, if any, given by the petitioners even while the petitioners are on bail as laid down by the Hon'ble Supreme Court in *Sushila Aggarwal v. State(NCT of Delhi)* and *Anr.*[2020 (1) KHC 663]. Sd/-
C.S.DIAS,JUDGE DST/25.04.24 //True copy// P.A. To Judge

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