

Rafeeq, vs State of Kerala

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Court : Kerala

Decided On : Feb-28-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./425/2023

Appellant : Rafeeq,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
TUESDAY, THE 28TH DAY OF FEBRUARY 2023 / 9TH PHALGUNA,
1944 CRIME NO.1183/2022 OF ALUVA EAST POLICE STATION,
ERNAKULAM PETITIONER/ACCUSED NO.2: RAFEEQ, AGED 43
YEARS, S/O. SAIDU MUHAMMED, MAROTTIKA HOUSE,
MARAMPILLY, P.O., PIN-683103. BY ADVS. PAUL K.VARGHESE
A.A.GEETHA RESPONDENTS: STATE OF KERALA REPRESENTED
PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM.,
PIN - 682031 SMT.REKHA SR.PUBLIC PROSECUTOR THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 28.02.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for anticipatory bail filed under Section 438 of the Code of Criminal Procedure.

2. The petitioner is the 2nd accused in Crime No.1183 of 2022 of Aluva Police Station.

2. The offences alleged against the petitioner are punishable under Sections 120B, 353, 188 and 34 of IPC and Section 3(2)(e) of PDPP Act.

3. The prosecution case, in short, is that the petitioner and two

other persons who are the loyalists of PFI with an intention to cause damage to the public property on 23.09.2022 at about 5.55 a.m, when the KSRTC bus bearing registration No. KL-15-8315 drove by the defacto complainant reached near to Pakalomattom bus stop, had thrown concrete blocks against the bus and thereby the front glass of

the bus broken and sustained a damage of Rs. 44,000/- and also obstructed the duty of the driver and conductor.

4. Having heard Sri.Paul K. Varghese, the learned counsel for the petitioner and Smt.S.Rekha, the learned Senior Public Prosecutor, I am not inclined to invoke the extra-ordinary jurisdiction vested with

this Court under Section 438 of Cr.P.C. However, the learned counsel for the petitioner submits that the petitioner is prepared to surrender before the investigating officer. Hence, this Bail Application is disposed of as follows:

(i) The petitioner shall surrender before the learned Magistrate and offer for bail within a week from today.

(ii) On interrogation, if the investigating officer feels that the petitioner is to be arrested, the investigating officer shall record his arrest and produce him before the jurisdictional Magistrate.

(iii) The bail application, if any, filed by the petitioner shall be disposed of by the learned Magistrate, in accordance with law, on the same day itself, after hearing both sides. Sd/- DR.KAUSER EDAPPAGATH, JUDGE AS

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