

R Kishor vs State of Kerala

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Court : Kerala

Decided On : Jan-18-2023

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./454/2023

Appellant : R Kishor

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 18TH DAY OF JANUARY 2023 / 28TH POUSHA,
1944 BAIL APPL. NO. 454 OF 2023 Crime No.1531/2022 of Fort Police
Station, Thiruvananthapuram PETITIONER/ACCUSED: 1 R KISHOR
AGED 30 YEARS 2 SHOBHA AGED 46 YEARS 3 K ASHOKAN AGED
60 YEARS BY ADV M.R.SARIN RESPONDENT/STATE: 1 STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT
OF KERALA, PIN - 682031 2 THE STATION HOUSE OFFICER FORT
POLICE STATION, THIRUVANANTHAPURAM., PIN - 695524 BY ADV
PUBLIC PROSECUTOR OTHER PRESENT: PP: SRI.M.C.ASHI THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON

18.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A. No.454 of 2023 :2:

VIJU ABRAHAM, J.

-- -- -- -- -- B.A. No.454 of 2023 -- -- -- -- --

-- -- Dated this the 18th day of January, 2023

ORDER

This is an application for anticipatory bail.

2. The petitioners are accused Nos. 1 to 3 in Crime

No.1531/2022 of Fort Police Station, Thiruvananthapuram, alleging commission of offence punishable under Section 420 r/w Section 34 of the Indian Penal Code. The 1 st petitioner is son-in-law of the 2nd and 3rd petitioners.

3. The prosecution allegation is that, with the intention to cause unjust loss to the defacto complainant and unjust profit to

the accused persons, accused Nos. 1 to 3 came to Amaravathi house where the defacto complainant was staying, and tricked the defacto complainant by saying that the accused persons are in need of Rs.18,00,000 for the purpose of the marriage of the 1 st accused. On 18/11/2020 and 22/01/2021 accused Nos. 1 to 3 came to the Amaravathi house in pazhavangadi, where the defacto complainant was staying and received Rs.18,00,000 from the defacto complainant. When the defacto complainant asked for a cheque or promissory note for the amount received by the accused

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persons, they said that they will sell their property and return the money within three months. Accused Nos. 1 to 3 cheated the defacto complainant by not providing any security for the amount received by them. On 15/12/2020 to conduct the posthumous rites of the defacto complainants wife, the 1 st accused pledged

two gold necklaces weighing 2 sovereigns each and two gold bangles

weighing 1 sovereigns each given to him by the defacto complainant. The defacto complainant gave money to accused no.1 to take back the pledged gold ornaments, and the defacto complainant was cheated and defrauded by accused no.1 by not taking back the pledged gold ornaments and also by not refunding the amount. 4 .The learned counsel for the petitioners submitted that they

have been falsely implicated in the above said crime. It is also submitted that the present complaint was registered only in the year 2022 and the allegation in the said complaint is that the petitioners received an amount of Rs.18,00,000/- from the defacto complainant in the year 2020, but the same was not returned back. It is further submitted that a legal notice was issued to the 1 st petitioner as annexure A3 and to which Annexure A4 reply was also filed. It is also submitted that the allegations against the petitioners are purely of a civil nature.

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5. Heard the learned Public Prosecutor also.

6. Having regard to the facts and circumstances of the case

and considering the nature of the allegations, I am of the opinion that custodial interrogation of the petitioners may not be required for the purpose of investigation and only a limited custody be granted for the same. Therefore, I am inclined to grant bail to the petitioners subject to stringent conditions. In the result, this application is allowed. It is directed that the petitioners shall

surrender before the investigating officer on 23.01.2023, at 11 a.m, and subject themselves for interrogation on that day and on any other day/days (in between 9 am and 6 pm) as directed by the investigating officer. The petitioners shall co-operate with the investigation. In the event of arrest in Crime No.1531/2022 of Fort Police Station, Thiruvananthapuram, they shall be produced before the jurisdictional Court on the very same day and shall be released on bail, subject to the following conditions:-

(i) Petitioners shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like-sum to the satisfaction of the jurisdictional court ;

(ii) The petitioners shall appear before the B.A. No.454 of 2023 :5: investigating officer in Crime No.1531/2022 of Fort Police Station, Thiruvananthapuram, on every Saturday, at 11 am, for a period of one month;

(iii) Petitioners shall appear before the investigating officer in Crime No.1531/2022 of Fort Police Station, Thiruvananthapuram as and when summoned to do so;

(iv) The petitioners shall not attempt to (contact the

victim or the defacto complainant) or interfere with the investigation or to influence or intimidate any witness in Crime No.1531/2022 of Fort Police Station, Thiruvananthapuram;

(v) The petitioners shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the investigating officer in Crime No.1531/2022 of Fort Police Station, Thiruvananthapuram may file an application before the jurisdictional Court, for cancellation of bail. It is made clear that it is within the power of the police to investigate the matter and if necessary to effect recoveries on the information if any given by any of the petitioners, even when the B.A. No.454 of 2023 :6: petitioners are on bail as per the judgment of the Apex Court in Sushila Aggarwal and others v. State(NCT of Delhi) and another(2020(1)KHC 663). Sd/- VIJU ABRAHAM JUDGE sm/

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