

Mujeeb Rahman vs State of Kerala

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Court : Kerala

Decided On : Mar-31-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Bail Appl./1710/2023

Appellant : Mujeeb Rahman

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
FRIDAY, THE 31ST DAY OF MARCH 2023 / 10TH CHAITHRA, 1945
PETITIONER: MUJEEB RAHMAN @ MUJEEB, AGED 48 YEARS S/O
MOHAMMED HUSSAIN, MAVIDICHA HOUSE, PARAL, MALAPPURAM
DISTRICT, PIN - 676505 BY ADV DENIZEN KOMATH RESPONDENTS:
1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 STATION
HOUSE OFFICER, SHORNUR POLICE STATION, SHORNUR,
PALAKKAD, KERALA, PIN - 679121 BY SRI.P.G.MANU, SR.PUBLIC
PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 31.03.2023, THE COURT ON THE SAME DAY

DELIVERED THE FOLLOWING:

ORDER

Dated this the 31st day of March, 2023 This is an application for anticipatory bail filed under Section 438 of the Code of Criminal Procedure by the petitioner, who is the accused in S.C.No.119/2017, pending before the Assistant Sessions Judge, Ottapalam

2. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

3. I have perused the relevant documents form part of the case diary, placed by the learned Public Prosecutor.

4. In this matter, Shornur police registered crime

No.262/2016, alleging commission of offences punishable under Sections 341, 354 and 307 of IPC by the accused. Thereafter, he was arrested and released on bail by imposing conditions. Subsequently, the petitioner absconded and which led to issuance of warrant and finally, issuance of steps under Sections 82 and 83 of Cr.P.C. It is at this juncture, the petitioner herein approached this Court and pressed for relief of anticipatory bail.

5. It is submitted by the learned counsel for the

petitioner that the petitioner is innocent and there was communication gap in between the learned counsel for the accused and the petitioner and accordingly, he could not appear before the trial court. It is also submitted that the petitioner is ready to surrender before the trial court and to co- operate with the investigation.

6. Whereas it is submitted by the learned Public

Prosecutor that the petitioner, who has been absconding, in violation of the terms of the bail bond executed earlier, for a period of five years, seeks the relief of pre-arrest bail and the same cannot be granted since very serious offences are alleged to be committed by him. Further, the petitioner absconded from trial and at

the verge of arrest, in view of the coercive steps, he moved this application seeking anticipatory bail. It is submitted further that if the petitioner would be released on bail, he would flee from trial.

7. On perusal of the prosecution records, issuance of

non-bailable warrant and steps under Sections 82 and 83 of Cr.P.C. with posting date 30.03.2023, could be gathered. Thus, without much ado, this is a case, in which the petitioner herein absconded from trial for a long period, which led to issuance of coercive steps to declare the petitioner as a 'proclaimed offender'. The case stood posted on 30.03.2023.

8. It appears that the explanation given by the learned

counsel for the petitioner that communication gap in between the learned counsel and the petitioner led to non-appearance of the petitioner cannot be believed at this point. Therefore, there shall be a direction to the petitioner to

surrender before the Investigating Officer, within a period of ten days from today, and move for regular bail, in accordance with law. If such an application is moved, the learned Assistant Sessions, Judge, Ottapalam is directed to consider the same and pass orders thereon, purely on merits, in consideration of the argument at the instance of the petitioner in order to secure the presence of the accused for trial, without fail.

With the above direction, this petition stands disposed of. Sd/- A. BADHARUDEEN
JUDGE nkr

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