

Arjun Babu, vs State of Kerala

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Court : Kerala Orders

Decided On : Mar-27-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2263/2023

Appellant : Arjun Babu,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
MONDAY, THE 27TH DAY OF MARCH 2023 / 6TH CHAITHRA, 1945
BAIL APPL. NO. 2263 OF 2023 CRIME NO.255/2023 OF ALAPPUZHA
NORTH POLICE STATION, Alappuzha PETITIONER/ACCUSED:
ARJUN BABU,AGED 22 YEARS S/O. BABUKUTTAN, KIZHAKKEVELI,
KOTTAMKULANGARA WARD, AVALOOKUNNU P.O., ALAPPUZHA,
PIN - 688006 BY ADVS.B.PRAMOD BIJU VIGNESWAR AYYAPPADAS
V RESPONDENT/STATE & COMPLAINANT: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, PIN - 682031 BY SRI. M.P. PRASANTH, PUBLIC
PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR

ADMISSION ON 27.03.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: -:2:-

ORDER

Dated this the 27th day of March, 2023 This application is filed under Section 438 of the Code of Criminal Procedure seeking pre-arrest bail.

2. The applicant is the accused in Crime No.255/2023 of Alappuzha North Police Station. The offences alleged are punishable under Sections 294(b), 323, 324 and 326 of the IPC.

3. The prosecution case, in short, is that on 1.3.2023 at about 9.15 am, the applicant assaulted the victim who is his paternal aunty, with an iron rod causing fracture to her bone.

4. I have heard Sri. B. Pramod, the learned counsel for the applicant and Sri. M.P. Prasanth, the learned Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the

present case. The counsel further submitted that no materials are on record to connect the applicant with the alleged crime; hence, he is entitled to get bail. The learned Public Prosecutor, on -:3:- the other hand, submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and if he is released on bail at this stage, it will affect the course of the investigation.

6. The law regarding the grant or refusal of pre-arrest bail is well settled. Pre-arrest bail cannot be granted as a matter

of course. The power under Section 438 of Cr.P.C could be exercised only when a special case is made out, that too, recording reasons thereof. Perusal of the case diary reveals that the accusation made against the applicant is very serious in nature and it prima facie shows a premeditated criminal act on his part. Moreover, the case records would show that the victim has suffered fracture in the incident.

The investigation is in a preliminary stage. The custodial interrogation of the applicant is necessary for the investigation. As rightly argued by the learned Public Prosecutor, the possibility of the applicant influencing the witnesses and interfering with the investigation cannot be ruled out if he is released on bail. Considering the gravity of the offence and stage of the -:4:- investigation, it is not a fit case where extra ordinary jurisdiction vested with this Court under Section 438 of Cr.P.C. could be invoked. The bail application is, accordingly, dismissed. Sd/- DR. KAUSER EDAPPAGATH JUDGE kp -:5:- APPENDIX OF BAIL APPL. 2263/2023 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE FIS IN CRIME NO.255/2023 OF ALAPPUZHA NORTH POLICE STATION, ALAPPUZHA DISTRICT Annexure A2 TRUE COPY OF THE FIR IN CRIME NO. STATION, ALAPPUZHA DISTRICT

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