

Sabu vs State of Kerala

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Court : Kerala Orders

Decided On : Mar-31-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2411/2023

Appellant : SABU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
FRIDAY, THE 31ST DAY OF MARCH 2023 / 10TH CHAITHRA, 1945
CRIME NO.190/2023 OF NORTH PARAVOOR POLICE STATION
PETITIONER/ACCUSED: SABU AGED 51 YEARS S/O VASU,
NIKATHIL KADAVIL HOUSE, KEDAMANGALAM, NORTH PARAVOOR,
PIN - 683513 BY ADVS. N.A.SHAFEEK NANDAGOPAN M.C.
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, KOCHI,
PIN - 682031 OTHER PRESENT: SRI.M.P.PRASANTH. P.P THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 31.03.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This application is filed u/s 438 of the Code of Criminal Procedure seeking pre-arrest bail.

2. The applicant is the accused in Crime No.190/2023 of North Paravoor Police Station. The offences alleged are punishable under Sections 452 and 354 of IPC.

3. The prosecution case, in short, is that on 22.02.2023 at

12.00 a.m., the applicant trespassed into the house of the victim, caught hold of her while she was sleeping in her bedroom and thereby committed the above said offences.

4. I have heard Sri.N.A.Shafeek, 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 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 u/s 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. The applicant is the neighbour of the victim who is aged 62 years. The alleged incident was taken place in the midnight at 12.00 a.m. The husband of the victim was not in the house. There are

specific allegations to attract the offences.

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 investigation, it is not a fit case where extraordinary jurisdiction vested with this Court u/s 438 of Cr.P.C. could be invoked. The bail application is, accordingly, dismissed. Sd/- DR.KAUSER EDAPPAGATH,
JUDGE AS

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