

Velmurugan, vs State of Kerala,

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Court : Kerala

Decided On : Jun-08-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./2422/2023

Appellant : Velmurugan,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
THURSDAY, THE 8TH DAY OF JUNE 2023 / 18TH JYAISHTA, 1945 BAIL APPL.
NO. 2422 OF 2023 CRIME NO.161/2023 OF SANTHANPARA POLICE STATION,
IDUKKI PETITIONERS/ACCUSED 1 & 2:

1 VELMURUGAN, AGED 50 YEARS S/O.AMAL RAJ, PANIYAR
ESTATE P.O., POOPARA VILLAGE, THONDIMALA, IDUKKI DISTRICT,
PIN - 685619 2 NIRMALA DEVI, AGED 48 YEARS W/O VELMURUKAN,
PANIYAR ESTATE P O, POOPARA VILLAGE, THONDIMALA, IDUKKI
DISTRICT, PIN - 685619 BY ADVS. S.RAJEEV V.VINAY M.S.ANEER
SARATH K.P. PRERITH PHILIP JOSEPH ANILKUMAR C.R.

RESPONDENTS/STATE: 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 STATION HOUSE OFFICER SANTHANPARA POLICE STATION -685619 (CRIME NO.161/2023 OF SANTHANPARA POLICE STATION, IDUKKI DISTRICT). BY ADV. PUBLIC PROSECUTOR SMT.SREEJA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.2422/2023 2

ORDER

This application is filed under Section 438 of the Code of Criminal Procedure, 1973, seeking pre-arrest bail.

2. Petitioners are accused Nos.1 and 2 in Crime No.161 of

2023 of Santhanpara Police Station, Idukki, alleging offences punishable under Sections 141, 142, 143, 294(b), 451, 323, 324 and 326 read with Section 149 of the Indian Penal Code.

3. According to the prosecution, on 07.03.2023, the accused assaulted the defacto complainant using an iron rod, causing fracture of his hand and thereby committed the offences alleged.

4. Sri.S.Rajeev, learned counsel for the petitioners,

submitted that the entire prosecution allegations are false and the incident as alleged had not occurred. It was further submitted that though the incident is alleged to have occurred on 07.03.2023, the FIR was filed only on 09.03.2023 and the same reached the Court only on 13.03.2023 and therefore, the prosecution case itself is doubtful.

5. Smt.V.Sreeja, learned Public Prosecutor, opposed the

application and submitted that the incident is alleged to have occurred on the night of 07.03.2023 and the defacto complainant had to be taken to the hospital and on

09.03.2023, the crime was B.A.No.2422/2023 3 registered since the days in between were holidays. The FIR was received by the Magistrate on 13.03.2023. According to the learned prosecutor, the investigation can be completed only on custodial interrogation and therefore, anticipatory bail ought not to be granted.

6. On a perusal of the FIR, it is seen that the first petitioner

is alleged to have trespassed into the house of the defacto complainant and assaulted him using a weapon. Even though the alleged weapon was taken from the house of the defacto complainant itself, considering the nature of injury inflicted on the defacto complainant, I am of the view that anticipatory bail cannot be granted to the first petitioner. However, as far as the second petitioner is concerned, she is a lady and the overt acts alleged against her are not very serious. Therefore, the second petitioner can be granted anticipatory bail subject to conditions for the purpose of interrogation.

7. Accordingly, the bail application of the first petitioner is rejected and the bail application of the second petitioner is allowed subject to the following conditions:

(a) 2nd Petitioner shall appear before the Investigating Officer on or before 21.06.2023 and subject herself to B.A.No.2422/2023 4 interrogation.

(b) If after interrogation, the Investigating Officer

proposes to arrest the 2nd petitioner, then, she shall be released on bail on her executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum before the Investigating Officer.

(c) 2nd Petitioner shall appear before the Investigating Officer as and when required and shall also co-operate with the investigation.

(d) 2nd Petitioner shall not intimidate or attempt to influence the witnesses; nor shall she tamper with the evidence.

(e) 2nd Petitioner shall not commit any similar offences while she is on bail.

(f) 2nd Petitioner shall not leave India without the permission of the Court having jurisdiction.

8. In case of violation of any of the above conditions, the

jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this B.A.No.2422/2023 5 Court.

9. Notwithstanding the above, if the first petitioner

surrenders before the Investigating Officer on or before 21.06.2023, he shall also be subject to interrogation. Thereafter, he shall be produced before the jurisdictional Magistrate without further delay. In the event of any application for bail being filed, the same shall be considered in accordance with law. In view of the above, Bail Application of the first petitioner is dismissed while that of the second petitioner is allowed as above. Sd/- BECHU KURIAN THOMAS JUDGE csl

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