

Rajesh vs State of Kerala

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Court : Kerala

Decided On : Mar-31-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2439/2023

Appellant : Rajesh

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
BAIL APPL. NO. 2439 OF 2023 CRIME NO. 390/2023 OF
NEYYATTINKARA POLICE STATION, THIRUVANANTHAPURAM

PETITIONER/ACCUSED NO.1: RAJESH AGED 28 YEARS S/O
SISHUPALAN, NARAYANAVILASAM, ILAVANIKKARA, VELIYAMCODE
P O NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT, PIN -
695512 BY ADVS. M.T.SURESHKUMAR MANJUSHA K SREELAKSHMI
SABU RESPONDENT/COMPLAINANT: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031 BY 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: ..2..

ORDER

Dated this the 31st day of March, 2023 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.390/2023

of Neyyattinkara Police Station, Thiruvananthapuram District. The offences alleged are punishable under Sections 341, 294(b), 308 r/w 34 of the IPC and Section 27 of the Arms Act.

3. The prosecution case, in short, is that on the defacto complainant, uttered obscene words against her, flashed sword towards her causing her death fear and thereby committed the offence.

4. I have heard Sri.M.T.Suresh Kumar, the learned counsel for the applicant and Sri.M.P.Prashanth, 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 ..3..

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. Initially, the FIR was registered under Sections 341, 294(b), 308 r/w 34 of the IPC and under Section 27 of the

Arms Act against two accused. Thereafter, during the investigation, Sections 308 and 34 of the IPC were deleted and one of the accused was removed from the array. Section 506(ii) and 427 of the IPC were also added. Now the only non

bailable offence alleged is under Section 27 of the Arms Act. The allegation to attract Section 27 of the Arms Act is that the applicant flashed a sword towards the defacto complainant. The applicant has no criminal antecedents. Considering the

allegations levelled against the applicant, his custodial interrogation does not appear to be necessary. For these reasons, it is a fit case where pre-arrest bail can be granted to ..4.. the applicant. In the result, the application is allowed on the following conditions:-

(i) The applicant shall be released on bail in the event

of his arrest on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the arresting officer/investigating officer, as the case may be.

(ii) The applicant shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for discovery, if any, as and when demanded.

(iii) The applicant shall appear before the investigating officer between 10.00 a.m. and 11.00 a.m. every Saturday until further orders. He shall also appear before the investigating officer as and when required.

(iv) The applicant shall not commit any offence of a like nature while on bail.

(v) The applicant shall not attempt to contact any of the prosecution witnesses, directly or through any other ..5.. person, or in any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vi) The applicant shall not leave the State of Kerala without the permission of the trial Court.

(vii) The application, if any, for deletion/modification of bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court.

Sd/- DR. KAUSER EDAPPAGATH JUDGE APA ..6.. APPENDIX OF BAIL APPL. 2439/2023 PETITIONER'S ANNEXURES Annexure A1 TRUE COPY OF THE FIR IN CRIME NO. 390 OF 2023 DATED 1-3-2023 OF NEYYATTINKARA POLICE STATION Annexure A2 TRUE COPY OF THE PRIVATE COMPLAINT FILED BEFORE JUDICIAL FIRST CLASS MAGISTRATE COURT-1, NEYYATTINKARA DATED 21-12-2022, Annexure A3 TRUE COPY OF THE FIR IN CRIME NO. 1748 OF 2022 OF NEYYATTINKARA POLICE STATION DATED 23-12-2022

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