

Ajith K vs State of Kerala

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Court : Kerala Orders

Decided On : Apr-03-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2513/2023

Appellant : Ajith K

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
MONDAY, THE 3RD DAY OF APRIL 2023 / 13TH CHAITHRA, 1945 CRIME NO.
374 OF 2023 OF HOSDURG POLICE STATION PETITIONERS/ACCUSED
NOS.1 TO 5:

1 AJITH K, AGED 30 YEARS S/O ASHOKAN K, KURIKKAL HOUSE,
PULLUR P.O, ANANDHASRAMAM, KASARAGOD, PIN - 671531 2
SHYAM KUMAR K, AGED 35 YEARS S/O SHANTHA K,
MOOLAKANDAM, AJANUR, KASARAGOD, PIN - 671531 3 NITHEESH
T AGED 28 YEARS S/O KRISHNAN, KANNOTH, MUKKOD, IRIYA
P.O, PULLUR, KASARAGOD, PIN - 671531 4 PRASHOB PRAKASH

V.M AGED 23 YEARS S/O PRAKASHAN, MELADUKKAM HOUSE,
ANANDASHRAM, AJANUR, KASARAGOD, PIN - 671531 5 MANURAJ
N AGED 27 YEARS NEERROK MUTHAPPAN THARA, KALYAN ROAD,
BALLA P.O, HOSDURG, KASRAGOD, PIN - 671531 BY ADVS. RAHUL
SASI NEETHU PREM MANU K. MURALI

RESPONDENTS/COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 STATION
HOUSE OFFICER HOSDURG POLICE STATION, HOSDURG, KASARAGOD,
PIN - 671315 OTHER PRESENT: SRI.M.P.PRASANTH THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 03.04.2023, 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 applicants are the accused No.1 in Crime No.374/2023 of Hosdurg Police Station and four others. The offences alleged are punishable under Sections 143, 147, 148, 324, 307 r/w 149 of IPC.

3. The prosecution case, in short, is that on 17.03.2023 at

06.00 p.m., the 1st applicant and 5 identifiable persons formed themselves into an unlawful assembly and in prosecution of the common object of the assembly, wrongfully restrained the husband of the de facto complainant and assaulted him with steel rod with an intention to kill him and when the de facto complainant intervened, they assaulted her also and thereby committed the above said offences.

4. I have heard Sri.Rahul Sasi, the learned counsel for the applicants and Sri.M.P.Prasanth, the learned Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicants submitted that the applicants are innocent and have been falsely implicated in the present case. The counsel further

submitted that no materials are on record to

connect the applicants with the alleged crime; hence, they are 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 1st applicant, and if he is released on bail at this stage, it will affect the course of the investigation. It is submitted by the learned Public Prosecutor that the 1st applicant alone has been arrayed as an accused and the remaining applicants have not been arrayed as accused so far.

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 applicants is very serious in nature and it prima facie shows a premeditated criminal act on their part. The specific overt act has been alleged against the 1st applicant. The husband of the de facto complainant who got injured in the incident is now in a critical condition undergoing treatment at Indiana Hospital, Mangalore. He had already undergone more than one surgery. It is submitted that one more surgery has to be conducted. The recovery is yet to be effected. Moreover, the 1st applicant has criminal

antecedents. The investigation is in a preliminary stage. The custodial

interrogation of the applicants is necessary for the investigation. As rightly argued by the learned Public Prosecutor, the possibility of the applicants influencing the witnesses and interfering with the investigation cannot be ruled out if they are released on bail. Considering the gravity of the offence and stage of the investigation, it is not a fit case where extra ordinary 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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