

Ramar vs State of Kerala

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Bail Appl./2526/2023

Appellant : RAMAR

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
BAIL APPL. NO. 2526 OF 2023 CRIME NO.266/2023 OF MUNNAR
POLICE STATION, IDUKKI PETITIONERS/ACCUSED:

1 RAMAR AGED 27 YEARS S/O IYYADURAI, LOWER DIVISION,
KANNIMALA ESTATE, KDH 2 HARI AGED 22 YEARS S/O
THENARESHU, LOWER DIVISION KANNIMALA ESTATE, KDH 3
LAKSHMANAN AGED 27 YEARS S/O HARIKRISHNAN, LOWER
DIVISION, KANNIMALA ESTATE, KDH 4 ARAVIND AGED 35 YEARS
S/O THENARESHU, LOWER DIVISION, KANNIMALA ESTATE, KDH 5

IYYADURAI AGED 59 YEARS S/O RAJAYYA, LOWER DIVISION, KANNIMALA ESTATE, KDH 6 MOHANAN AGED 23 YEARS S/O IYYADURAI, LOWER DIVISION, KANNIMALA ESTATE, KDH 7 NISANTH AGED 24 YEARS S/O KUMAR ASAITHAMPI, LOWER DIVISION, KANNIMALA ESTATE, KDH VILLAGE, MUNNAR, IDUKKI, PIN - 685612 8 KASAMUTHU AGED 59 YEARS S/O KASAMUTHU, KANNIMALA ESTATE, KDH VILLAGE, MUNNAR, IDUKKI, PIN - 685612 BY ADV LATHEESH SEBASTIAN

RESPONDENT/STATE & COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BAIL APPL. NO. 2526 OF 2023 2 BY SR. PUBLIC PROSECUTOR SRI.P G MANU THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BAIL APPL. NO. 2526 OF 2023 3

ORDER

Dated this the 31st day of May, 2023. Anticipatory bail plea, at the instance of accused Nos.1 to 8 in Crime No266/2023 of Munnar Police Station, Idukki, is the crux of this petition, filed under Section 438 of the Code of Criminal Procedure.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

3. I have perused the relevant documents.

4. The prosecution allegation is that, in between

5.30 p.m. and 5.45 p.m. on 14.3.2023, accused herein formed into unlawful assembly, with knowledge that they are all members of the said assembly, to cause grievous injuries to the de facto complainant and attacked him. The specific allegation is that, the 1 st accused, who used a knife, handed over by the 8th accused, beat on the head of the de facto complainant. The further allegation is that, the 2nd accused beat the cousin of the de facto complainant, by using an iron rod and the same caused BAIL APPL. NO. 2526 OF 2023 4 injuries on his left eye

and the bone nearby the left eye. It is alleged that accused Nos.3 to 8 also assisted the other accused and thereby, all of them alleged to have committed offences punishable under Sections 143, 144, 147, 148, 294(b), 341, 323, 324, 326 r/w Section 149 of the Indian Penal Code.

5. The learned counsel for the petitioners

submitted that, in this matter, apart from registering Annexure 1 crime (Crime No.266/2023), Annexure 2 crime, Crime No.257/2023 also was registered, alleging commission of offences punishable under Sections 308, 323, 294(b) r/w Section 34 of the Indian Penal Code and the 1st accused sustained very serious injuries in Annexure A2 crime. According to the learned counsel for the petitioners, since case and counter involved, the truth of the matter is to be ascertained during evidence and as of now, both sides sustained injuries and therefore, the petitioners may be released on bail and they are ready to co-operate with the investigation.

6. Whereas, the learned Public Prosecutor would

submit that, Accused Nos.1 and 2 alleged to have used BAIL APPL. NO. 2526 OF 2023 5 weapons and the specific allegation is that, the knife used by the 1st accused to beat on the head of the de facto complainant, was given by the 8th accused. The learned Public Prosecutor also submitted that, even though the allegation against the other accused is not so specifically stated, they also, being members of unlawful assembly, assaulted the de facto complainant and thereby, caused injuries to the de facto complainant. The learned Public Prosecutor given heavy emphasis on the CT Scan report issued from Morning Star Scan, Morning Star Medical Centre, Idukki, showing multiple fractures and serious injuries to Sri.Rajan, the de facto complainant. Accordingly, it is pointed out that, arrest, custodial interrogation and recovery of weapons, at the instance of accused Nos.1, 2 and 8 of this crime, are necessary. Therefore, the petitioners cannot be released on anticipatory bail.

7. On perusal of the prosecution records, as

pointed out by the learned counsel for the petitioners, registration of case and counter case could be gathered. In the counter case, serious offence is one under Section BAIL APPL. NO. 2526 OF 2023 6 308 of the Indian Penal Code. It is relevant to note that, in this matter, the de facto complainant sustained the following injuries:

Comminuted displaced fracture of left zygoma
Comminuted displaced fracture of lateral wall of left maxillary sinus with haemosinus
Mildly displaced fracture of lateral wall of left orbit
Diffuse emphysematous changes seen in left temporal scalp and infratemporal fossa

It is discernible from the records that the knife was brought by the 8th accused and handed over to the 1st accused, to beat on the head of the de facto complainant. Similarly, the 2nd accused also used an iron rod to beat the de facto complainant's cousin. In such case, the learned Public Prosecutor is right in arguing that arrest, custodial interrogation, recovery of weapons and identification of the same, at the instance of accused Nos.1, 2 and 8, are necessary, to accomplish meaningful investigation. Therefore, I am inclined to dismiss anticipatory bail plea, at the instance of petitioners/accused Nos.1, 2 and 8, while allowing anticipatory bail to the other petitioners/accused, viz., petitioners/accused Nos.3 to 7. BAIL APPL. NO. 2526 OF 2023 7 In the result, the bail application is allowed in part. The bail plea, at the instance of petitioners/accused Nos.1, 2 and 8, stands dismissed. Anticipatory bail is granted to petitioners/accused Nos.3 to 7, on the following conditions:

- i. Petitioners/accused Nos.3 to 7 shall surrender before the Investigating Officer within ten days from today and on such surrender, the Investigating Officer can question them. In the event of their arrest, the Investigating Officer shall produce them before the jurisdictional court on the date of arrest itself.
- ii. On such production, the jurisdictional court shall release the petitioners/accused Nos.3 to 7 on bail, on executing bond for Rs.30,000/- (Rupees thirty thousand only) each by themselves and by two solvent sureties, each for the like sum to the satisfaction of the jurisdictional court.
- iii. Petitioners/accused Nos.3 to 7 shall co-

operate with investigation and shall be made available for interrogation and for the purpose of investigation, as and when the Investigating Officer directs

BAIL APPL. NO. 2526 OF 2023 8 so. iv. Petitioners/accused Nos.3 to 7, shall not intimidate the witnesses or interfere with the investigation, in any manner. v. Petitioners/accused Nos.3 to 7 shall not commit any offence during currency of this bail and any such involvement is a reason to cancel the bail hereby granted.
Sd/- A. BADHARUDEEN JUDGE Bb

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