

Ajayakumar, vs State of Kerala, Represented by the Public Prosecutor,

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Court : Kerala Orders

Decided On : Apr-13-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2616/2023

Appellant : Ajayakumar,

Respondent : State of Kerala, Represented by the Public Prosecutor,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
THURSDAY, THE 13TH DAY OF APRIL 2023 / 23RD CHAITHRA, 1945
CRIME NO.614/2023 OF KOTTARAKKARA POLICE STATION,
KOLLAM PETITIONER/ACCUSED: AJAYAKUMAR, AGED 56 YEARS
S/O. P.V. KRISHNAN, MANIMANDIRAM, AMBALAKKARA, KOLLAM
DISTRICT, PIN - 691532 BY ADVS. M.ANUROOP M.DEVESH
MURSHID ALI M. RESPONDENT/COMPLAINANT: STATE OF
KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM, PIN - 682031 (CRIME
NO.614/2023 OF KOTTARAKKARA POLICE STATION)
SRI.C.S.HRITHWIK SR.PP THIS BAIL APPLICATION HAVING COME

UP FOR ADMISSION ON 13.04.2023, 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 applicant is the accused in Crime No.614/2023 of Kottarakkara Police Station. The offences alleged are punishable under Sections 294(b), 324, 326 r/w 34 of IPC.

3. The prosecution case, in short, is that on 05.03.2023 at 05.30. p.m., the applicant assaulted the de facto complainant with an iron rod causing fracture and thereby committed the above said offences.

4. I have heard Sri.M.Anuroop, the learned counsel for the applicant and Sri.C.S.Hrithwik, the learned Senior 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 son-in-law of

the de facto complainant. Specific overt act has been alleged against the applicant. The de facto complainant is an aged lady who sustained fracture in the alleged incident.

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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