

Shehin vs State of Kerala

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Court : Kerala

Decided On : Apr-25-2023

Judge : Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : Bail Appl./2865/2023

Appellant : Shehin

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR
TUESDAY, THE 25TH DAY OF APRIL 2023 / 5TH VAISAKHA, 1945
BAIL APPL. NO. 2865 OF 2023 AGAINST THE ORDER DATED
27.03.2023 IN CMP 3843 OF 2023 OF THE JUDICIAL MAGISTRATE
OF FIRST CLASS -II, NEDUMANGAD PETITIONERS: 1 SHEHIN,
AGED 21 YEARS, S/O NASSAR, VATTAKKULAM MANZIL,
ARUVIKKARA P.O, THIRUVANANTHAPURAM DISTRICT, PIN -
695564. 2 MUHAMMAD AJMAL, AGED 22 YEARS, S/O ABU,
SUMAYYA MANZIL, ARUVIKKARA P.O, THIRUVANANTHAPURAM
DISTRICT, PIN - 695564. BY ADV S.NIKHIL SANKAR RESPONDENT:
STATE OF KERALA REP BY PUBLIC PROSECUTOR HIGH COURT

OF KERALA, ERNAKULAM, PIN - 682031. SR PUBLIC PROSECUTOR,
SMT. SEETHA S THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 25.04.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

P.G. AJITHKUMAR, J.

----- B.A.No. 2865 of 2023
----- Dated this the 25th day of
April, 2023

ORDER

This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. The petitioners are accused Nos.1 and 2 in Crime No.522 of 2023 of Nedumangad Police Station. They allegedly had committed the offences punishable under Sections 294(b), 323, 326, 308, 324, 341, 427 and 506 read with Section 34 of the Indian Penal Code, 1860.

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

4. The prosecution allegation is that on 19.03.2023 at

20.00 hours while the defacto complainant and his brothers were drinking tea at Ahara Restaurant at Azhikkodu, the 1st accused by uttering obscene words, hit on his head with his hand and accused 2 to 4 hit on his chest, back and head and when he fell down, the 2nd accused beat him with a chair, which was warded off by him. In that course, he sustained injury in his finger and his nasal bone got fractured. Accused also caused hurt to his brothers, who tried to rescue him and the 3rd respondent destroyed his mobile phone. The 2nd accused threatened to kill them also. The hit with the chair could have potential effect of resulting death of the defacto complainant.

5. The petitioners would contend that they did not

involve in the alleged crime and without any material or evidence, they have been implicated in the crime and that they are innocent. The investigation in the matter has been progressed considerably and there is no reason or justification for their further detention.

6. The learned Public Prosecutor would submit that

considering the seriousness of the offence and the possibility of interfering with the investigation by the petitioners in the event of their release on bail, this petition deserves only to be dismissed.

7. The petitioners have been in custody for the last 35 days. From the materials on record, it appears that the incident had occurred following a quarrel and no preplan to commit the offence is revealed.

8. The learned Public Prosecutor would submit that no

antecedents of the petitioners are revealed from the report made available by the investigating officer. The petitioners are aged 21 and 22 years respectively. Considering the nature of offence, stage of investigation and the age of the petitioners, I am inclined to grant bail to the petitioners. In the result, the bail application is allowed and the petitioners are granted bail on their executing a bond for Rs.50,000/- (Rupees fifty thousand only) each, with two solvent sureties for the like amount each, to the satisfaction of the learned Magistrate, subject to the following conditions:

- (i) They shall not influence or intimidate witnesses or tamper with evidence;
- (ii) They shall appear before the investigating officer as and when called for; and
- (iii) During the bail period, they shall not get involved in any

offence. In case of breach of the bail conditions, the prosecution shall be at liberty to apply for cancellation of the bail before the jurisdictional court. Sd/- P.G. AJITHKUMAR, JUDGE dkr APPENDIX OF BAIL APPL. 2865/2023 PETITIONER ANNEXURES Annexure1 CERTIFIED COPY OF THE ORDER DATED J.F.C.M-II,NEDUMANGAD

