

Aneesh vs State of Kerala

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Court : Kerala Orders

Decided On : May-09-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Bail Appl./3006/2023

Appellant : Aneesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 9TH DAY OF MAY 2023 / 19TH VAISAKHA, 1945 BAIL
APPL. NO. 3006 OF 2023 CRIME NO.239 OF 2023 OF ADOOR
POLICE STATION, PATHANAMTHITTA PETITIONER/ACCUSED
NOS.1,3,5,8,9,11,12 & 13:

1 ANEESH @ SANKU, AGED 32 YEARS S/O. RAJAN, ELSY BHAVAN,
KURUMBUKARA CHEENIVALA, ENADIMANGALAM VILLAGE, PIN -
689695 2 SARATH M AGED 31 YEARS S/O. MOHANAN, ELIMULLIL
MELETHIL, KATTUKALA COLONY, MAROOR. P. O.,
ENADIMANGALAM VILLAGE, PIN - 691524 3 SYAM RAJ AGED 35

YEARS S/O. P.K. RAJAN, SYAMRAJ BHAVAN, KURUMBUKARA P.O., ENADIMANGALAM VILLAGE PRESENTLY RESIDES AT: PAYATTUMVILAYIL HOUSE, KANNIMALA, MANNADI P.O., KADAMBANADU VILLAGE 691 530, PIN - 689695 4 UNMESH K. AGED 38 YEARS S/O. KUTTAN, AYANIVILA PADINJATTETHIL VEEDU, CHEMMANNETTU, KURUMBUKARA P.O., ENADIMANGALAM VILLAGE, PIN - 689695 5 SYAM M AGED 26 YEARS S/O. MOHANAN, ELIMULLIL MELETHIL, KUTTUKALA COLONY, MAROOR P.O., ENADIMANGALAM VILLAGE, PIN - 691524 6 SUDHEESH AGED 25 YEARS S/O. JAYACHANDRAN, SUDHABHAVANOM, KATTUKALA COLONY, MAROOR P.O., ENADIMANGALAM VILLAGE, PIN - 691524 7 SURENDRAN AGED 44 YEARS

S/O. PODIYAN, KATTUKALAYIL VEEDU, KATTUKALA COLONY, MAROOR P.O., ENADIMANGALAM VILLAGE, PIN - 691524 8 JITHIN S. AGED 24 YEARS S/O. SHAJI, MUKALUVILA PADINJATTETHIL VEEDU, KANNAMKARA, KURUMBUKARA. P.O., ENADIMANGALAM VILLAGE, PIN - 691524 BY ADVS. RINNY STEPHEN CHAMAPARAMPIL ANJANA S.

RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 PUBLIC PROSECUTOR SMT. T.V. NEEMA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: P.V.KUNHIKRISHNAN, J ----- B.A.No.3006 of 2023 ----- Dated this the 9th day of May, 2023

ORDER

This Bail Application is filed under Section 439 of Criminal Procedure Code . 2.The petitioners are accused Nos.1,3,5,8,9,11,12 and 13 in Crime No.239/2023 of Adoor Police Station, Pathanamthitta. The above case is registered against the petitioners alleging offences punishable under Sections 143,144,147,148,427,449 and 302 r/w 149 of IPC. The offence under Section 11(1)(a) of Prevention of

Cruelty to Animals is also alleged.

3. The prosecution case is that, on 19.2.2023, at

about 10.45 p.m. at Ozhukupara in Enadimangalam village, accused persons in prosecution of their common object, formed themselves into an unlawful assembly with deadly weapons such as stick, iron rods and chopper and trespassed into the courtyard of Vadkkecharuvil house, wherein the deceased Sujatha was resided. It is also alleged the accused demolished the doors and windows with iron rods and sticks. Thereafter, the accused persons trespassed into the house by breaking open the kitchen door of the house with a chopper and caused injury to the dog which was tied inside the room by beating and hacking. It is also alleged that the accused attacked the deceased

Sujatha with dangerous weapon on her head. The deceased sustained serious injuries and succumbed to injury on 20.2.2023. It is also alleged that the accused persons vandalized the furniture and other household articles kept inside the house and thrown the same into a nearby well. Hence, it is alleged that the accused committed the offence.

4. Heard the counsel for the petitioners and the Public Prosecutor. The counsel for the petitioners submitted that the allegation against the petitioners are not correct. It is also submitted that the petitioners are ready to abide any conditions if this Court grants them bail. The Public Prosecutor seriously opposed the bail application.

5. This Court considered the contention of the petitioners and learned Public Prosecutor. The

petitioners are accused Nos. 1,3,5,8,9,11,12 and 13. This Court considered the bail application of some other accused in B.A.No.3184/2023. This Court after considering the matter in detail found that there is serious allegation against accused Nos.1 to 5. The petitioners 1,2 and 3 are accused Nos.1,3 and 5. I am not inclined to grant them bail at this stage. The counsel for the petitioners submitted that, 6 th petitioner, who is 11th accused filed another bail and hence his

application is not pressed. Petitioners 4 to 8 are accused Nos. 8,9,11,12 and 13. In the light of the above submission, petitioners 4,5,7 and 8 can be released on bail because there is no serious allegation against them. There is no case to the prosecution that they assaulted the victim. Therefore, bail can be granted to the petitioners 4,5,7 and 8. Accused No.11, who is the petitioner No.6 in this case is already released on bail as per order in B.A. No.3184/2023.

6. Considering the facts and circumstances of

this case, the bail application of petitioners 1 to 3 are rejected and the bail application of petitioners 4 ,5,7 and 8 are allowed with the following directions:

1. Petitioners 4,5,7 and 8 shall be released on

bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

2. The petitioners 4,5,7 and 8 shall appear before the Investigating Officer for interrogation as and when

required. The petitioners shall co-operate with the investigation and shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

3. Petitioners 4 ,5,7 and 8 shall not leave India without permission of the jurisdictional Court.

4. Petitioners 4,5,7 and 8 shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

5. The petitioners 4,5,7 and 8 shall appear before the investigating officer on all Mondays at 11.a.m. till final report is filed.

6. If any of the above conditions are violated by the petitioners 4,5,7 and 8, the jurisdictional Court can cancel the bail in accordance to law, even though the bail is granted by this Court.

7. Bail application of petitioner No.6 is closed in the light of the order in B.A. No.3184/2023. Sd/- P.V.KUNHIKRISHNAN, JUDGE rmm

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