

Ajmal vs State of Kerala

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Court : Kerala

Decided On : Apr-28-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Bail Appl./3009/2023

Appellant : AJMAL

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 28TH DAY OF APRIL 2023 / 8TH VAISAKHA, 1945 BAIL
APPL. NO. 3009 OF 2023 CRIME NO.344/2023 OF MATTANCHERRY
POLICE STATION PETITIONER/2ND ACCUSED: AJMAL AGED 30
YEARS S/O. UBAID, RESIDING AT 7/147, CHAKKAMADAM,
MATTANCHERRY, KOCHI, PIN - 682002 BY ADV D.LEEMA ROSY
RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,
PIN - 682031 PUBLIC PROSECUTION SMT. SEETHA S. THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 28.04.2023,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2 :

ORDER

Dated this the 28th day of April, 2023 This bail application is filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the 2nd accused in crime No.344/2023

of Mattancherry Police Station. The offences alleged against the petitioner and the other accused are under Sections 143, 147, 148, 149, 323, 324, 326, 367, 308 and 506(i) of the Indian Penal Code.

3. The prosecution case is that, on 28.02.2023, the

petitioner along with other accused persons, had abducted the defacto complainant and thereafter assaulted him, with a broken piece of glass and a wooden stick, thereby causing serious injuries to him. The crime was registered in such circumstances and as part of investigation, the petitioner was arrested on 27.03.2023. Since then, he has been under judicial detention. This application is submitted in such circumstances. :3 :

4. Heard Smt. D. Leema Rosy, the learned counsel appearing for the petitioner and Smt. Seetha S., the learned Public Prosecutor for the State.

5. The learned counsel for the petitioner submits that the

petitioner is innocent of all the allegations. According to the learned counsel for the petitioner, the petitioner was falsely implicated in the case. Besides the same, it is pointed out that, the marriage of the petitioner is fixed and it is to be performed on 18.05.2023 at Bangalore. The petitioner submits that he shall abide by any conditions that may be imposed by this Court.

6. On the other hand the learned Public Prosecutor would

oppose the aforesaid contentions. It is pointed out that there are serious allegations against the petitioner as to the commission of the offences. There are specific overt acts alleged against the petitioner. The matter is under investigation. Therefore the application for bail is to be rejected, contends the learned

prosecutor.

7. I have gone through the records and heard the

contentions raised from both sides. It is true that there are allegations against the petitioner. But the fact remains that the petitioner is in custody since 27.03.2023. According to the learned :4 : counsel for the petitioner, the petitioner was arrested as he voluntarily surrendered before the investigating officer. There is substantial progress in the investigation and it is also reported that the petitioner's marriage is fixed on 18.05.2023. No criminal antecedents of the petitioner was also reported. In such circumstances, I deem it appropriate to pass an order to grant bail to the petitioner by incorporating appropriate conditions for ensuring his co-operation with the investigation. Accordingly, the petitioner is directed to be released on bail subject to the following conditions:-

(I) The petitioner shall be released on bail on executing a bond for `1,00,000/- (Rupees One Lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall fully cooperate with the investigation.

(iii) The petitioner shall appear before the Investigating Officer between 10.00 a.m and 11.00 a.m every Saturday until the filing of the final report.

(iv) The petitioner shall also appear before the Investigating Officer as and when required.

(v) The petitioner shall surrender his passport before :5 : the jurisdictional court. If the petitioner does not have a passport, he shall execute an affidavit to that effect and file the same before the said court.

(vi) The petitioner shall not commit any offence of similar nature while on bail.

(vii) The petitioner shall not make any attempt to

contact any of the prosecution witnesses, directly or through any other person, or in any other way try to tamper with the evidence or influence any witnesses or

other persons related to the investigation. (viii) The petitioner shall not leave the Country without the permission of the trial Court.

In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with law. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd :6 : APPENDIX OF BAIL APPL. 3009/2023 PETITIONER ANNEXURES Annexure 1 TRUE COPY OF FIR IN CRIME NO.344/2023 OF THE MATTANCHERRY POLICE STATION DATED 2/3/2023 Annexure2 ORIGINAL INVITATION CARD OF THE PETITIONER Annexure 3 TRUE COPY OF THE 161 STATEMENT OF THE DEFACTO COMPLAINANT Annexure 4 TRUE COPY OF THE RECEIPT ISSUED BY THE CUTCHI MEMOM ASSOCIATIO OF SHADI MAHAL DATED 11/1/2023 Annexure 5 TRUE COPY OF POLICE CUSTODY PETITION FILED BY THE PROSECUTION DATED

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