

Ullas vs State of Kerala

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Court : Kerala

Decided On : May-31-2023

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

Appeal No. : Bail Appl./4043/2023

Appellant : ULLAS

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
BAIL APPL. NO. 4043 OF 2023 (Crime No. 453/2023 of Velloor Police
Station) PETITIONER/ACCUSED NOS 2, 3 AND 4:

1 ULLAS AGED 30 YEARS S/O RAMANAN, MANJAKKALAYIL HOUSE,
MEVELLOOR P.O, VELLOOR VILLAGE, VAIKOM TALUK, KOTTAYAM
DISTRICT., PIN - 686605 2 UNNIKRISHNAN AGED 30 YEARS S/O
CHANDRAN, KRISHNA NIVAS, MEVELLOOR P.O, VELLOOR
VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT., PIN - 686605 3 AL
SIRAJ AGED 39 YEARS S/O UMMAR KOYA, AL-AMEEN HOUSE

MEVELLOOR P.O, VELLOOR VILLAGE, VAIKOM TALUK, KOTTAYAM DISTRICT., PIN - 686605 BY ADVS. M.B.SOORI BALAMURALI K.P. JITHIN BOSE HARIPRIYA.M

RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 BY ADV PUBLIC PROSECUTOR OTHER PRESENT: ADV SEETHA S - SR PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

This is an application for pre-arrest bail under section 438 of the Cr.P.C

2. The petitioners are the accused Nos. 2, 3 and 4, in

Crime No. 453/2023 of Velloor Police Station. The offences alleged against the petitioners are punishable under Sections 341, 323, 354 and 325, read with Section 34 of the Indian Penal Code.

3. The prosecution case is that, on 24.04.2023 at around 11.30 p.m., while a musical concert was going on at Changamatha Temple premises, the defacto complainant and her husband happened to see an attack on their children. Immediately they intervened, and thereupon, the accused persons assaulted the defacto complainant and her husband. It is alleged that the 1 st accused slapped on the face of the defacto complainant, and the other accused persons fisted the husband of the defacto

complainant. The crime was registered in such circumstances, and this application for Anticipatory Bail is submitted as they apprehended arrest in connection with the investigation of the said case.

4. Heard, Sri. M.B Soori, the learned counsel appearing for the petitioners and Smt.Seetha.S, the learned Public Prosecutor, appearing for the State.

5. The learned counsel for the petitioners submits that the petitioners are innocent of all the allegations. According to him, a false complaint was submitted by the defacto complainant as there

was some dispute between the husband of the defacto complainant and the 1st accused in connection with the supply of laterite. Petitioners herein are the employees of the 4th accused, and the complaint was submitted in such circumstances. The learned counsel for the petitioners further points out that they are prepared to abide by any conditions that may be imposed by this Court.

6. On the other hand, the learned Public Prosecutor would oppose the aforesaid application by pointing out that there are specific allegations of assault against the petitioners herein. The

matter is now under investigation. Besides the same, it is further pointed out that the 2nd and the 3rd petitioners have criminal antecedents, and both of them were involved in certain other cases of similar nature. It is also pointed out that the proceedings under Section 107 Cr.P.C were initiated against them by the Sub Divisional Magistrate, Pala, and they have already executed bonds as part of the said proceedings. Dismissal of the bail application was sought in such circumstances.

7. I have gone through the records and heard the contentions raised from both sides. On going through the statement of the victim, it is evident that the specific overt acts

were alleged against all the accused persons. As far as the accused Nos. 2 and 3 are concerned, they also have criminal antecedents. However, it is to be noted that the only non-bailable offence alleged is under Section 354 of the Indian Penal Code and on going through the materials placed on records, there is nothing to indicate prima facie that the acts were committed by the petitioners with the intention to outrage the modesty. Even as per the contents of the statement, it is evident that there was a scuffle between the parties and the injuries were sustained by the victims during the course of such a scuffle.

8. When considering the entire materials placed on record, the aforesaid contentions put forward by the learned counsel for the petitioners cannot be simply brushed aside. There are indeed

specific allegations of assault against the petitioners, but all the offences registered consequent to such assaults are bailable. Therefore, the custodial interrogation of the petitioners appears to be not necessary. In such circumstances, I am of the view that the purpose of the investigation would be served if the cooperation of the petitioners with the investigation is ensured.

In such circumstances, the application is allowed on the following conditions:-

(i) The petitioners shall surrender before the Investigating Officer, within a period of two weeks from today, for subjecting themselves to interrogation.

(ii) After interrogation, the petitioners shall be released on

bail on the very same day of surrender upon the petitioners executing a bond for Rs 1,00,000/- (Rupees One Lakh only) each with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.

(iii) The petitioners shall fully cooperate with the investigation, including subjecting themselves to the deemed police custody for the purpose of recovery, if any, as and when demanded.

(iv) 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.

(v) The petitioners shall also appear before the Investigating Officer as and when required.

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

(vii) The petitioners 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.

(vii) The petitioners shall not leave the State of Kerala without the permission of the Jurisdictional Court. In case of violation of any of the above conditions, the

jurisdictional Magistrate shall be empowered to consider the application for cancellation of bail, if any, and pass appropriate orders in accordance with the law.

Sd/- ZIYAD RAHMAN A.A JUDGE rpk

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