

Bony vs State of Kerala

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Court : Kerala

Decided On : Jun-27-2023

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

Appeal No. : Bail Appl./4821/2023

Appellant : BONY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
TUESDAY, THE 27TH DAY OF JUNE 2023 / 6TH ASHADHA, 1945
BAIL APPL. NO. 4821 OF 2023 CRIME NO.259/2023 OF
RAMAMANGALAM POLICE STATION PETITIONERS/ACCUSED
NOS.2 & 3: 1 BONY AGED 30 YEARS S/O JOY, MEPPANAL HOUSE,
OORAMANA P.O., MEEMURY VILLAGE, ERNAKULAM, PIN - 686663 2
SANU C SUNNY AGED 28 YEARS /O SUNNY C A,
CHERUMANCHIRAYIL HOUSE, KIZHUMURI P.O., RAMAMANGALAM,
ERNAKULAM, PIN - 686663 BY ADVS. K.R.PRATHISH
P.K.SREEVALSAKRISHNAN RESPONDENT: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF

KERALA, PIN - 682031 SR PP SREEJA THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 27.06.2023, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING: :2 :

ORDER

Dated this the 27th day of June, 2023 The petitioners are accused Nos.2 and 3 in crime No.259/2023 of Ramamangalam Police Station. The offences alleged against the petitioners are under Sections 341, 294(b), 506, 324, and 326, read with Section 34 of the Indian Penal Code.

2. The prosecution case is that, on 06.05.2023 at 10.30

p.m., due to previous enmity towards the defacto complainant, the accused persons assaulted the defacto complainant and his friends. It is alleged that the 1st accused attacked the defacto complainant on his hip with an iron rod and caused a fracture. The other accused also assaulted the defacto complainant and his friends. The crime was registered in such circumstances, and as the petitioners apprehend arrest in connection with the investigation of the said case, this application for anticipatory bail is submitted.

3. Heard Sri. K.R. Prathish, the learned counsel appearing for the petitioners and Smt. Sreeja V., the learned Senior Public Prosecutor for the State. :3 :

4. The learned counsel for the petitioners submits that the

petitioners are innocent of all the allegations and they were falsely implicated in the case. According to him, the main allegations are against the 1st accused, and the role of the petitioners in commission of the offence is very much limited. Therefore, they seek anticipatory bail.

5. The learned Public Prosecutor, on the other hand,

submits that the 1st petitioner/2nd accused is already arrested on 17.06.2023. As regards the 2nd petitioner/3rd accused, it is pointed out that, there are certain allegations against him and the matter is under investigation.

6. I have gone through the records. Since the 1 st petitioner

is already arrested, the prayer sought on his behalf for anticipatory bail has become infructuous. As regards the 2 nd petitioner/3rd accused, it can be seen that the allegations raised against the petitioner are not very grave. The main allegations are against the 1st accused. The injury based on which the offence under Section 326 incorporated was caused due to the assault made by the 1 st petitioner. In such circumstances, I am of the view that the interest of justice would be served if the cooperation of the 2 nd petitioner with the investigation is ensured.

:4 : In such circumstances, this bail application is disposed of, as regards the prayer sought by the 2 nd petitioner, with the following directions:

(i) The 2nd petitioner shall surrender before the Investigating Officer, within a period of two weeks from today, for subjecting himself to interrogation.

(ii) After interrogation, the 2nd petitioner shall be released on

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

(iii) The 2nd petitioner shall fully cooperate with the investigation, including subjecting himself to the deemed police custody for the purpose of recovery, if any, as and when demanded.

(iv) The 2nd 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 2nd petitioner shall also appear before the Investigating Officer as and when required.

(vi) The 2nd petitioner shall not commit any offence of similar nature while on bail.

(vii) The 2nd 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. :5 :

(viii) The 2nd petitioner shall not leave India without the permission of the Jurisdictional 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 the law. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd :6 : APPENDIX OF BAIL APPL. 4821/2023 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE ORDER DATED 06.06.2023 IN CRL.MC NO. 1514 OF 2023 OF DISTRICT AND SESSIONS COURT, ERNAKU

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