

Arun vs State of Kerala

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Court : Kerala

Decided On : Aug-07-2023

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

Appeal No. : Bail Appl./5474/2023

Appellant : ARUN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 7TH DAY OF AUGUST 2023 / 16TH SRAVANA, 1945
CRIME NO.373/2023 OF WALAYAR POLICE STATION, PALAKKAD
DISTRICT PETITIONER/ACCUSED: ARUN, AGED 30 YEARS S/O.
CHANDRAN, CHIRAKKUZHIYIL, PALLANA MURI,
THRIKKUNNAPPUZHA VILLAGW, ALAPPUZHA, PIN - 690515 BY
ADVS. SURESH JOSEPH SANALKUMAR.B RESPONDENT/S: 1
STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031 2 STATION HOUSE
OFFICER WALAYAR POLICE STATION , WALAYAR, PALAKKAD
DISTRICT, PIN - 678031 * ADDL.R3 RENJITH, S/O.CHANDRAN,
ILAYERI KIZHAKKETHIL HOUSE, PALLANA P.O.,

THRIKKUNNAPUZHA VILLAGE , AALAPPUZHA DISTRICT. * ADDL.R3
IS IMPEADED AS ADDITIONAL RESPONDENT 3 AS PER ORDER
DTD 25-07-23 AJITH MURALI FOR ADDL.R3

OTHER PRESENT: SMT.V.SREEJA-SR.PP THIS BAIL APPLICATION HAVING
COME UP FOR ADMISSION ON 07.08.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: ZIYAD RAHMAN, A.A, J BA No.5474 of 2023
Dated this the 7th day of August, 2023

ORDER

This is an application for anticipatory bail.

2. The petitioner is the accused in Crime No. 373 of 2023 of Walayar Police Station, Palakkad District. The crime was registered for the offence punishable under Section 308 of IPC.

3. The prosecution case is that, on 11.06.2023 at 5 pm, due to the

previous enmity between the defacto complainant and the accused, the accused drove his Taurus lorry, which was parked at a crusher unit under the name Sand Maker at NIDA, Kanchikode, bearing Registration No.KL-29U- 8204, in reverse gear, with the intention to kill the defacto complainant, who was standing behind the vehicle. However, the defacto complainant, while seeing the vehicle, moved away. It is alleged that had he not moved, the lorry would have hit and killed him. It is also alleged that, in the said incident, damages were sustained to the vehicle belonging to the defacto complainant bearing registration No.KL-29T-0686.

4. The crime was registered in such circumstances, and as the petitioner apprehends arrest in connection with the investigation of the said case, this application for anticipatory bail is submitted in such circumstances.

5. Heard Sri.Suresh Joseph, the learned counsel appearing for the

petitioner, Smt.Sreeja V, the learned Senior Public Prosecutor appearing for the State. And Sri.Ajith Murali, the learned counsel appearing for the defacto

complainant.

6. The learned counsel for the petitioner submits that the petitioner is innocent of all the allegations and that he was falsely implicated.

7. The learned Public Prosecutor and the learned counsel for the

defacto complainant oppose the said prayer. The learned Public Prosecutor also pointed out that the petitioner is involved in three other cases. The details of which are as follows:-

1. Crime No.209/2023 of Thrikkunapuzha Police Station, under Sections 294(b), 452, 323, 324, 308 r/w Section 34 IPC

2. Crime No.212/2023 of Thrikkunapuzha Police Station, under Sections 354, 354 A, (1) 294(b) r/w Section 34 IPC

3. Crime No.222/2023 of Thrikkunapuzha Police Station, under Sections 323, 447, 294(b), 506 IPC.

8. The learned counsel appearing for the defacto complainant

opposes the said application by pointing out that there are several disputes between them and the act of the petitioner, based on which crime registered, was intentional. I have gone through the records. The crucial question that arises is

whether the act of the petitioner was intentional or not. It is a matter to be investigated. Though the offence alleged is under Section 308 of the IPC, no injury was sustained by the defacto complainant. In such circumstances, I do not find the necessity for custodial interrogation of the petitioner. The interest of justice will be served if the cooperation of the petitioner with the investigation is ensured. Therefore, this bail application is disposed of with the following directions:

i) The petitioner shall surrender before the Investigating Officer, within a period of three weeks from today, for subjecting himself to interrogation. ii) After interrogation, the petitioner shall be released on bail on the very same day of surrender upon the petitioner executing a bond for Rs 1,00,000/- (Rupees One

Lakh only) with two solvent sureties each for the like sum, to the satisfaction of the Investigating Officer. iii) The 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 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 petitioner shall appear before the Investigating Officer as and when required. 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 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 R.AV

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