

Francis vs State of Kerala

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Court : Kerala

Decided On : Aug-01-2023

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

Appeal No. : Bail Appl./6155/2023

Appellant : Francis

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945
BAIL APPL. NO. 6155 OF 2023 CRIME NO.398/2023 OF
CHERANALLOOR POLICE STATION PETITIONER/ACCUSED NO.2:
FRANCIS AGED 41 YEARS S/O JOSEPH E.F, EDATHIL
HOUSE,PIZHALA P.O, ERNAKULAM DISTRICT, PIN - 682027 BY ADV
SIJO PATHAPARAMBIL JOSEPH RESPONDENT/COMPLAINANT:
STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM., PIN -
682031 SRI. C.S. HRITWIK, SR. P.P. THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 01.08.2023, THE COURT ON

THE SAME DAY DELIVERED THE FOLLOWING: :2 :

ORDER

Dated this the 1st day of August, 2023 This bail application is filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the 2 nd accused in crime No.398/2023 of Cheranalloor Police Station. The offence alleged against the petitioner and the 1 st accused is under Section 420 of the Indian Penal Code.

3. The prosecution case is that, the 1 st accused, availed

a gold loan of `60,300/- on 10.01.2023 from M/s. KLM Axiva Finvest, Cheranalloor Branch, by pledging gold ornaments. However, later the said gold ornaments were found to be spurious in nature. The allegation against the petitioner is that, he stood as a surety for the said transaction, with the knowledge that the gold was spurious. The crime was registered in such circumstances and as part of the investigation, the petitioner was arrested on 16.06.2023. Since then, he has been under judicial custody. This application for regular bail is submitted in such :3 : circumstances.

4. Heard Sri. Siju Pathaparambil Joseph, the learned counsel appearing for the petitioner and Sri. C.S. Hritwik, the learned Public Prosecutor for the State.

5. I have carefully gone through the records. It is true

that, there are certain allegations against the petitioner. However, it is discernible that the main allegation of pledging spurious gold is against the 1st accused. The petitioner has been in judicial custody from 16.06.2023 onwards. There is substantial progress in the investigation. The learned Public Prosecutor pointed out that the petitioner also involved in crime No.630/2023 or Ernakulam Town North Police Station which was registered against him for similar allegations. However, when considering the period of detention the petitioner had undergone and the stage of investigation, I am of the view that further incarceration of the petitioner is not necessary. Therefore bail can be granted to the petitioner subject

to appropriate conditions to ensure that he is not interfering with the investigation of the said case. Accordingly, this bail application is allowed and the petitioner is directed to be released on bail subject to the following :4 : conditions:-

(i) The petitioner shall be released on bail on 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 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 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 like 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. :5 :

(viii) The petitioner shall not leave India 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. 6155/2023 PETITIONER ANNEXURES Annexure A CERTIFIED COPY OF THE ORDER OF THE DISTRICT AND SESSIONS COURT, ERNAKULAM , IN CRL MC NO 1975/2023 DATED 19.07.2023