

Binil Abraham vs State of Kerala,

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Court : Kerala

Decided On : Dec-22-2023

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : Bail Appl./6201/2023

Appellant : Binil Abraham

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945
CRIME NO.265/2023 OF Enath Police Station, Pathanamthitta
PETITIONER/ACCUSED NO.3 :- BINIL ABRAHAM, AGED 35 YEARS
S/O. O.M. ABRAHAM, OOPPOOTTIL HOUSE, PANGADA.P.O.,
PAMPADY, KOTTAYAM DISTRICT, PIN - 686502 BY ADV K.V.SREE
VINAYAKAN RESPONDENTS/STATE :- STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031 STATION HOUSE OFFICER, ENATHU POLICE
STATION, PATHANAMTHITTA DISTRICT, PIN - 689104 ADDL.R3 IS
IMPLEADED :- BIBIN SABU, S/O. SABU JOHN, BATHEL HOUSE,

KALAMALA, ENATHU.P.O., *3 ENATHU, PATHANAMTHITTA.
*ADDL.R3 IS IMPEADED AS PER ORDER DATED 25.09.2023 IN
CRL.M.A.NO.1 OF 2023 SRI. M.C. ASHI, PP THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 22.12.2023, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

MOHAMMED NIAS C. P. , J.

===== B. A. No. 6201 of 2023
===== Dated this the 22nd day of
December, 2023

ORDER

This is an application filed under Section 438 of the Code of Criminal Procedure seeking pre-arrest bail.

2. Apprehending arrest in Crime No.265 of 023 of Enath Police

Station, registered for offences under Sections 406 and 420 r/w Section 34 of the IPC, the petitioner herein/3rd accused has filed this petition seeking anticipatory bail.

3. The prosecution case is that the 1st and 2nd accused collected an

amount of Rs.6,48,000/- on various dates from the defacto complainant and her mother in the name of Salvos International, Valakom, Kottayam District, offering a job visa to the defacto complainant to Italy. The accused person did not arrange the visa for the defacto complainant as promised. When the defacto complainant requested to the petitioner and the other accused persons to return the money, the 1st accused returned an amount of Rs.1,00,000/- only to the defacto complainant. The further allegation against the petitioner herein is that the petitioner had given a cheque for Rs.3,00,000/- to the defacto complainant, which is dishonoured on presentation. Subsequently, the petitioner had given an amount of Rs.30,000/- only to the defacto complainant and thereby committed the aforesaid offences.

4. The learned counsel for the petitioner contended that the

prosecution allegations are false and the offences against the petitioners will not lie. Even otherwise learned counsel submitted that the petitioner is willing to abide by any condition that may be imposed.

5. The learned Public Prosecutor opposed the application. The

petitioner can be implicated as an accused, and custodial interrogation of the petitioner is essential to bring out the truth of the allegations; unless the petitioner IS also arrested and interrogated, the truth of the allegations will not be able to be revealed.

6. The learned counsel appearing for the petitioner and the learned Public Prosecutor were heard.

7. I have considered the rival contentions.

8. It is seen that this Court had granted an interim order at the time

of admission of the case not to arrest the third accused, and the said order was extended from time to time. Later, this Court, by order dated 23.11.2023, passed an interim order directing the petitioner to surrender before the Investigating Officer within a period of three weeks for subjecting himself to interrogation. It was also directed that on such surrender, the petitioner shall be released on bail on executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the investigating officer. It is submitted that pursuant to the above order, the petitioner had appeared before the investigating officer as directed and was released on bail. The said order was in force for a period of three weeks.

9. Considering the nature of the accusations made against the

petitioner and the fact that they had subjected themselves to interrogation and were released on bail, I am inclined to pass an order making the earlier interim order absolute on the following conditions:

(i) The petitioner shall cooperate with the investigating officer and shall appear as and when directed by the investigating officer.

(ii) The petitioner shall not intimidate or attempt to influence the witnesses, or tamper with any evidence, or get involved in similar offences while on bail.

(iii) The petitioner shall not leave India without permission of the jurisdictional court.

(iv) In case of violation of any of the above conditions, the

jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court. Sd/- MOHAMMED NIAS C. P. , JUDGE SMA APPENDIX OF BAIL APPL. 6201/2023 PETITIONER ANNEXURES :- THE TRUE COPY OF THE FIR IN CRIME NO. Annexure A1 265/2023 OF ENATHU POLICE STATION, PATHANAMTHITTA DISTRICT

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