

Ajitha, vs State of Kerala,

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SooperKanoon Citation : sooperkanoon.com/1382871

Court : Kerala

Decided On : Oct-31-2023

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

Appeal No. : Bail Appl./7088/2023

Appellant : Ajitha,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA,
1945 BAIL APPL. NO. 7088 OF 2023 CRIME NO.170/2023 OF
ATHIRAPPILLY POLICE STATION, Thrissur PETITIONER/ACCUSED: 1
AJITHA, AGED 50 YEARS W/O SIVADASAN,KOCHAPPILLY,
KANNANKUZHI, VETTELAPPARA, PARIYARAM P.O, THRISSUR -
680721 2 ANILA K S, AGED 26 YEARS D/O SIVADASAN
K.K,KOCHAPPILLY HOUSE, VETTELAPPARA, KANNANKUZHI
PARIYARAM, THRISSUR, PIN - 680721 BY ADVS. RAPHAEL
THEKKAN CHRISTINE MATHEW

RESPONDENT/COMPLAINANT & STATE : STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA- 682031 SMT.T.V.NEEMA, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26.10.2023, ALONG WITH Bail Appl..6935/2023, 6964/2023 AND CONNECTED CASES, THE COURT ON 31.10.2023 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945 BAIL APPL. NO. 6935 OF 2023 CRIME NO.170/2023 OF ATHIRAPPILLY POLICE STATION, Thrissur PETITIONER/ACCUSED:

1 SINDU, AGED 42 YEARS W/O.MANOJ, PARANGIMAVIN THOTTATHIL HOUSE, KANNANKUZHI DESOM, ATHIRAPPILLY VILLAGE, CHALAKUDY TALUK, THRISSUR DISTRICT, PIN - 680721 2 MANOJ @ MANOHARAN, AGED 48 YEARS S/O.KUTTIMATHAYI, PARANGIMAVIN THOTTATHIL HOUSE, KANNANKUZHI DESOM, ATHIRAPPILLY VILLAGE, CHALAKUDY TALUK, THRISSUR DISTRICT, PIN - 680721 BY ADV N.L.BITTO

RESPONDENT/COMPLAINANT & STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 SMT.T.V.NEEMA, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26.10.2023, ALONG WITH Bail Appl..7088/2023 AND CONNECTED CASES, THE COURT ON 31.10.2023 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945 BAIL APPL. NO. 6964 OF 2023 CRIME NO.170/2023 OF ATHIRAPPILLY POLICE

STATION, Thrissur PETITIONER/ACCUSED: 1 ANIL P S, AGED 31 YEARS PUTHETTU, KUNNATHUKAVALA, SASIMALA P.O, WAYANADU-673579 2 AMAL K S, AGED 22 YEARS S/O SIVADASAN K.K, KOCHAPPILLY HOUSE, VETTELAPPARA, KANNANKUZHI PARIYARAM, THRISSUR-680721 BY ADVS. RAPHAEL THEKKAN CHRISTINE MATHEW RESPONDENT/COMPLAINANT & STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA-682031 SRI.P.G.MANU (MAMMALASSERY) SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26.10.2023, ALONG WITH Bail Appl..7088/2023 AND CONNECTED CASES, THE COURT ON 31.10.2023 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945 BAIL APPL. NO. 7092 OF 2023 CRIME NO.170/2023 OF ATHIRAPPILLY POLICE STATION, Thrissur PETITIONER/ACCUSED NO.3:

1 AJESH, AGED 42 YEARS S/O VELAYUDHAN,R/O PEEDAKERI, KANNANKUZHI DESOM, ATHIRAPPILLY VILLAGE, CHALAKUDY TALUK, THRISSUR DISTRICT-680721 2 SHAJI, AGED 57 YEARS S/O KOCHAPPU, R/O PEEDAKERI, KANNANKUZHI DESOM, ATHIRAPPILLY VILLAGE, CHALAKUDY TALUK, THRISSUR DISTRICT-680721 BY ADVS. GAYATHRI MURALEEDHARAN VISHNUPRASAD P.S. ARATHY P.

RESPONDENT/COMPLAINANT & STATE: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA-682031 SRI.P.G.MANU(MAMMALASSERY) SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26.10.2023, ALONG WITH Bail Appl..7088/2023 AND CONNECTED CASES, THE COURT ON 31.10.2023 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945 BAIL
APPL. NO. 7134 OF 2023 CRIME NO.170/2023 OF ATHIRAPPILLY POLICE
STATION, Thrissur PETITIONER/ACCUSED:

1 RAVI, AGED 62 YEARS S/O.CHATHU, KARYAKKAL HOUSE,
KANNANKUZHI DESOM, ATHIRAPPILLY VILLAGE, CHALAKUDY
TALUK, THRISSUR DISTRICT-680721 2 KISHORE, AGED 42 YEARS
S/O.KRISHNAN, AMBAZHAKADAN HOUSE, KANNANKUZHI DESOM,
ATHIRAPPILLY VILLAGE, CHALAKUDY TALUK, THRISSUR
DISTRICT, PIN - 680721 3 SUKU, AGED 54 YEARS
S/O.KUNJUVALONE, KANNANKUZHI DESOM, ATHIRAPPILLY
VILLAGE, CHALAKUDY TALUK, THRISSUR DISTRICT, PIN - 680721 4
MANOJ, AGED 48 YEARS S/O.SUBRAMANYAN, MADATHIPARAMBIL
HOUSE, KANNANKUZHI DESOM, ATHIRAPPILLY VILLAGE,
CHALAKUDY TALUK, THRISSUR DISTRICT, PIN - 680721 BY ADV
N.L.BITTO

RESPONDENT/COMPLAINANT & STATE: STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA-
682031 BY SRI.P.G.MANU(MAMMALASSERY) SR.PP THIS BAIL APPLICATION
HAVING COME UP FOR ADMISSION ON 26.10.2023, ALONG WITH Bail
Appl..7088/2023 AND CONNECTED CASES, THE COURT ON 31.10.2023
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA, 1945 BAIL
APPL. NO. 7142 OF 2023 CRIME NO.170/2023 OF ATHIRAPPILLY POLICE
STATION, Thrissur PETITIONER/ACCUSED: PRASAD, AGED 50 YEARS S/O

MANI, THEKANODI HOUSE KANNANAKUZHY DESAM, ATHIRAPALLI VILLAGE
THRISSUR DISTRICT-680721 BY ADVS. P.K.VARGHESE M.T.SAMEER JERRY
MATHEW REGHU SREEDHARAN RESPONDENT/COMPLAINANT & STATE:
STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH
COURT OF KERALA-682031 SRI.P.G.MANU(MAMMALASSERY) SR.PP THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20.10.2023,
ALONG WITH Bail Appl..7088/2023 AND CONNECTED CASES, THE COURT
ON 31.10.2023 DELIVERED THE FOLLOWING:

MOHAMMED NIAS C.P., J.

----- B.A.Nos. 6935, 7134, 7142, 7092, 6964 & 7088 of 2023
----- Dated this the 31st day of October, 2023

ORDER

Apprehending arrest in Crime No.170 of 2023 of Athirappally Police Station, Thrissur District, registered for offences punishable under Sections 143, 145, 147, 294(b), 341, 342, 332, 353 and 506 r/w Section 149 of the IPC, A2, A4, A5 and A6 in BA No.7134/2023, A3 and A8 in BA No.7092/2023, A7 in BA No.7142/2023, A9 and A10 in BA No.6964/2023, A11 and A12 in BA No.6935/2023, A13 and A14 in BA No.7088/2023 have filed this petition seeking pre-arrest bail.

2. The prosecution allegation is that on 07/08/2023 at about

8.00 p.m., the police officers on intimation that the first accused was selling foreign-made liquor near the Kannankuzhi waiting shed arrived there for inspection and they were detained and was obstructed in the discharge of their duties by the first accused and other 25 identifiable persons. 3 Learned counsel for the petitioners submitted that the police initially had come in civil dress in a vehicle with a Maharashtra registration to apparently apprehend a person who was allegedly and unauthorisedly selling IMFL at Athirappally. He mistakenly thought it was A1 and tried to arrest him by dragging him. He shouted and accordingly, the other people of the locality objected to him being taken without knowing that the person in civil dress was a police officer. It is also pointed out that A9 and A10 are

the son and son-in-law of A1, while A13 and A14 are the wife and daughter of A1. A8 is a forest guard also hailing from the same area and others are the locals, who came to the scene of the occurrence. They submitted that there was no force used against the police for inviting section 353 IPC and thus prayed for granting them anticipatory bail.

4. Learned Public Prosecutor opposing the bail application

submits that initially, the police officer had to come in civil dress as otherwise, it was difficult to apprehend the person about whom information was received of selling IMFL unauthorizedly. After the commotion started in trying to arrest A1, the police party came and even after knowing that they were police, they were obstructed in the discharge of their duty and thus the offence was committed.

5. Having considered the rival submissions few facts deserve

to be noted. On facts, it is clear that A1 was mistakenly taken into custody as no recovery was made from him and it was only on seeing the said person being taken that the locals intervened. The fact that they could not identify the police as he was wearing a civil dress and that too in a private vehicle with Maharashtra registration.

6. Learned counsel for the petitioner in B.A.6935/23 submits

that the same officer had earlier arrested the second accused alleging commission of an offence under S.307 I.P.C case and was detained for several days before releasing him after realising that the initial arrest was on a mistaken identity. Annexures 3 and 4 would prove the above contentions. Under such circumstances, the contention of the petitioner was that it was natural for the locals to fear that the same police officer was repeating his earlier act of arresting an innocent person, they tried to obstruct. They only tried to prevent the police jeep from taking A1 from whom no recovery was made.

7. Both sides had produced the photographs and the perusal of

the same would show that the locals questioned the police under the circumstances narrated above. True, as the Prosecutor says the petitioners could not have tried to prevent the police party when they came in the police jeep and discharging their duty, but on an overall consideration of the facts would reveal that the objection was on account of the previous bad experience as revealed from Annexures 3 and 4 produced in BA No.6935/2023 and their response cannot said to be completely misplaced. In all these cases, there was an order staying the arrest pending consideration of the bail applications. For these reasons, I am inclined to grant anticipatory bail to the petitioners. i. The petitioners are directed to surrender before the Investigating Officer within a week from today, and on such surrender, the Investigating Officer can interrogate the petitioner. In the event of his arrest, the Investigating officer shall produce the petitioners before the jurisdictional court on the date of surrender itself. ii. On such production, the jurisdictional court shall release the petitioners on bail, on executing a separate bond for Rs.25,000/- (Rupees twenty-five thousand only) each by the petitioners and by two solvent sureties each for the like sum to the satisfaction of the jurisdictional court.

(iii) The petitioners shall cooperate with the investigation and make themselves available for interrogation and investigation as and when the Investigating Officer directs them to do so.

(iv) The petitioners shall not intimidate the witnesses or

interfere with the Investigation in any manner. v. The petitioners shall not be involved in any offence while on bail. vi. If any of the above conditions are violated, the court concerned will be empowered to take steps for cancellation of bail as per law. The bail applications are allowed as above. Sd/- MOHAMMED NIAS C.P. JUDGE dlk/28.10.23 APPENDIX OF BAIL APPL. 6935/2023 PETITIONERS ANNEXURES Annexure 1 A TRUE COPY OF THE FIR IN CRIME NO. 170 OF 2023 OF THE ATHIRAPPILLY POLICE STATION DATED 8/8/2023 Annexure 2 A TRUE COPY OF THE REMAND REPORT IN CRIME NO. 170 OF 2023 OF THE ATHIRAPPILLY POLICE STATION DATED Annexure 3 A TRUE COPY OF THE REPORT FILED BY THE DYSP CHALAKUDY IN CRIME NO.99 OF 2022 OF

THE ATHIRAPPILLY POLICE STATION DATED 16/1/2023 Annexure 4 A TRUE COPY OF THE REPORT FILED BY THE DYSP CHALAKUDY IN CRIME NO.99 OF 2022 OF THE ATHIRAPPILLY POLICE STATION DATED 3/2/2023 APPENDIX OF BAIL APPL. 6964/2023 PETITIONERS ANNEXURES Annexure 1 TRUE COPY OF THE FIR NO. 170 OF 2023 OF ATHIRAPPALLI POLICE STATION, THRISSUR DISTRICT DATED 08/08/23 APPENDIX OF BAIL APPL. 7092/2023 PETITIONERS ANNEXURES Annexure A1 THE TRUE COPY OF THE FIR IN CRIME NO: 170 OF 2023 OF ATHIRAPPILLY POLICE STATION DATED 08.08.2023 Annexure A2 THE TRUE COPY OF THE PHOTOGRAPH OF THE NUMBER PLATE OF THE VEHICLE DATED NIL Annexure A3 THE TRUE COPY OF THE PHOTOGRAPH OF THE INSPECTOR OF POLICE, ATHIRAPPILLY CAPTURED FROM THE ALLEGED SCENE OF OCCURRENCE DATED NIL APPENDIX OF BAIL APPL. 7134/2023 PETITIONERS ANNEXURES Annexure 1 A TRUE COPY OF THE FIR IN CRIME NO. 170 OF 2023 OF THE ATHIRAPPILLY POLICE STATION DATED 7/8/2023 Annexure 2 A TRUE COPY OF THE REMAND REPORT IN CRIME NO. 170 OF 2023 OF THE ATHIRAPPILLY POLICE STATION DATED Annexure 3 A TRUE COPY OF THE ORDER IN BA.6935 OF 2023 OF THE HONORABLE HIGH COURT OF KERALA DATED 11/8/2023 APPENDIX OF BAIL APPL. 7142/2023 PETITIONER'S ANNEXURES Annexure-1 A TRUE COPY OF THE FIR DATED 08.08.2023 IN CRIME NO. 170/2023 OF ATHIRAPALLY POLICE STATION APPENDIX OF BAIL APPL. 7088/2023 PETITIONERS ANNEXURES Annexure 1 TRUE COPY OF THE FIR NO. 170 OF 2023 OF ATHIRAPPALLI POLICE STATION, THRISSUR DISTRICT DATED 08/08/23 Annexure A2 TRUE COPY OF THE COMPLAINT GIVEN BY THE 1ST PETITIONER TO THE KERALA STATE SC/ST COMMISSION DATED 10.08.2023 AND THE THEIR REPLY Annexure A3 PHOTOGRAPHS OF THE POLICE FROM THE CRIME OCCURRENCE PLACE AT THE TIME OF THE INCIDENT