

Faisal C vs State of Kerala

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Court : Kerala

Decided On : Aug-25-2023

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

Appeal No. : Bail Appl./7301/2023

Appellant : Faisal C

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 BAIL
APPL. NO. 7301 OF 2023 Crime No.344/2023 of Cherpulassery Police
Station PETITIONER/ACCUSED: 1 FAISAL C, AGED 26 YEARS, S/O
MOIDEEN, CHARALIL HOUSE, MARAYAMANGALAM SOUTH,
CHARALIL P.O., PALAKKAD, PIN - 2 MUHAMMED MUNEER, AGED 22
YEARS, S/O SIRAJUDHEEN, KADUMODIYIL HOUSE, PATTISSERI,
NELLAYA, PALAKKAD, PIN - BY ADVS. ANAND KALYANAKRISHNAN
C.DHEERAJ RAJAN RESPONDENT/STATE: 1 STATE OF
KERALAREPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT
OF KERALA, PIN - 682031 2 ASHIQUEAGED 32 YEARSS/O

BASARUDHEEN, 5/3, SAKTHIVINAYAKAR, TEACHERS COLONY,
VILANKURUCHI ROAD, COIMBATORE, TAMIL NADU, PIN - 641035
BY ADV Abraham Mathan OTHER PRESENT: SMT.V.SREEJA-SR.PP
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
25.08.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER

This is an application filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioners are the accused Nos. 2 and 3 in Crime

No.344/2023 of Cherpulassery Police Station, which was initially registered for the offences punishable under Sections 392 read with 34 of the Indian Penal Code. Later, the Section 392 was substituted with Section 395 of the Indian Penal Code.

3. The prosecution case is that, on 21.06.2023 at about

2.30 p.m., while the defacto complainant was travelling in a car, the petitioner along with the other accused intercepted the defacto complainant and forcefully took the vehicle along with an amount of Rs.5,00,000/-. The crime was registered in such circumstances and as part of the investigation, the 1 st petitioner was arrested on 23.07.2023 and the 2nd petitioner was arrested on 02.08.2023. Since then, they have been under judicial detention. This application for regular bail is submitted in such circumstances.

4. Heard, Sri. C.Dheeraj Rajan, the learned counsel appearing for the petitioners and Smt. Sreeja. V, the learned Public Prosecutor, appearing for the State.

5. The learned counsel for the petitioners submits that the

petitioners are innocent of all the allegations. It is also pointed out that, now the disputes between the petitioners and the defacto complainant were settled, and the affidavit sworn by the defacto complainant in this regard is produced as

Annexure-3. It is also pointed out that, the 1st accused is granted anticipatory bail by this Court as per order passed in B.A.No.6560/2023 on the basis of the said settlement. CrI.M.C.No.6191/2023 has also been filed by the petitioners for quashing the proceedings on the basis of settlement and it is now pending consideration before this Court.

6. On the other hand, the learned Public Prosecutor

opposes the said application by pointing out that, there are specific allegations against the petitioners. The 2nd petitioner is also involved in Crime No.750/2023 of Manjeri Police Station for the offences punishable under Section 395 of the Indian Penal Code.

7. I have carefully gone through the records. Of course,

there are specific allegations against the petitioner. However, the petitioners have been under judicial detention since 23.07.2023 and 02.08.2023 respectively. Now it is reported that the matter has been settled and an affidavit to that effect is sworn by the defacto complainant. In such circumstances, taking note of the aforesaid aspects, I am of the view that, the further incarceration of the petitioners is not necessary. Accordingly, this application is allowed on the following conditions:- i) The petitioners shall be released on bail on executing bonds for Rs. 1,00,000/- (Rupees One Lakh only) each with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Court.

ii) The petitioners shall fully cooperate with the investigation. iii) The petitioners shall appear before the Investigating Officer between 10.00 a.m and 11.00 a.m every Wednesday until the filing of the final report. iv) The petitioners shall also appear before the Investigating Officer as and when required. v) The petitioners shall not commit any offence of similar nature while on bail. vi) The petitioners 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. vii) The petitioners 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 rpk

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