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**Shafeek vs State of Kerala**

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**SooperKanoon Citation** : sooperkanoon.com/1403283

**Court** : Kerala

**Decided On :** Dec-01-2023

**Judge** : Honourable Dr. Justice Kauser Edappagath

**Appeal No.** : Bail Appl./9921/2023

**Appellant** : Shafeek

**Respondent** : State of Kerala

**Judgement** :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH FRIDAY, THE 1ST DAY OF DECEMBER 2023 / 10TH AGRAHAYANA, 1945 BAIL APPL. NO. 9921 OF 2023 CRIME NO.1447/2023 OF Ochira Police Station, Kollam PETITIONER/ACCUSED NO.2 SHAFEEK AGED 23 YEARS S/O. NOUSHAD @ NAZAR, VELASSERIL PADEETHATHIL, PAYIKKUZHI, OACHIRA, KOLLAM, KERALA., PIN - 690526 ADV.BALAMURALI K.P HARIPRIYA.M RESPONDENT STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 OTHER PRESENT: SMT. NIMA JACOB-PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01.12.2023, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

## ORDER

This application is filed u/s 439 of the Code of Criminal Procedure seeking regular bail.

2. The applicant is the accused No.2 in Crime No.1447/2023 of Ochira Police Station. The offences alleged are punishable under Sections 294(b), 341, 323, 324, 307 read with 34 of IPC.

3. The prosecution case, in short, is that on

15.10.2023 at 7.45 p.m., the applicant along with accused No.1 assaulted the uncle of the defacto complainant with a knife and a beer bottle with the intention to kill him and thereby committed the aforesaid offences.

4. I have heard Smt.Haripriya M., the learned counsel for the applicant and Smt.T.V. Neema, the learned Senior Public Prosecutor. Perused the case diary.

5. The learned counsel for the applicant submitted

that the applicant is innocent and has been falsely implicated in the present case. The counsel further submitted that no materials are on record to connect the applicant with the alleged crime; hence, he is entitled to get bail. On the other hand, the learned Public Prosecutor submitted that the alleged incident occurred as a part of the intentional criminal acts of the applicant, and he is not entitled to bail at this stage.

6. The applicant was remanded to judicial custody on

16.10.2023. No serious overt act is alleged against the applicant. Accused No.1 against whom serious overt act was alleged had already been granted bail. The records would show that in the very same incident, the applicant has also sustained serious injuries. The investigation is practically over and recovery has already been effected. For all these reasons, I do not find any reason to hold that the continued detention

of the applicant is required for any purpose. Hence, the applicant is entitled to be released on bail. In the result, the application is allowed on the following conditions: -

(i) The applicant shall be released on bail on

executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the jurisdictional Magistrate/Court.

(ii) The applicant shall fully co-operate with the investigation.

(iii) The applicant shall appear before the investigating officer between 10.00 a.m and 11.00 a.m. every Saturday until further orders. He shall also appear before the investigating officer as and when required.

(iv) The applicant shall not commit any offence of a like nature while on bail.

(v) The applicant shall not 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.

(vi) The applicant shall not leave the State of Kerala without the permission of the trial Court.

(vii) The application, if any, for deletion/modification of the bail conditions or cancellation of bail on the grounds of violating the bail conditions shall be filed at the jurisdictional court.

Sd/- DR. KAUSER EDAPPAGATH JUDGE smm APPENDIX OF BAIL APPL. 9921/2023 PETITIONER ANNEXURES Annexure 1 THE TRUE COPY OF THE F.I.R. IN CRIME NO.1447/2023 OF OCHIRA POLICE STATION, REGISTERED ON 16/10/2023. Annexure 2 TRUE COPY OF THE COMPLAINT DATED LAW OF THE 1ST ACCUSED BEFORE THE SHO, KARUNAGAPALLY POLICE STATION. Annexure THE TRUE COPY OF THE MEDICAL RECORDS, 3(Series) HISTORY

SHEETS, CONSULTATION RECORDS OF THE PETITIONER/ACCUSED NO.2 OF VANDANAM MEDICAL COLLEGE, ALAPPUZHA. Annexure 4 THE TRUE COPY OF THE F.I.R. IN CRIME NO.1453/2023 OF OCHIRA POLICE STATION.

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