

Mathew E.C vs State of Kerala

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Court : Kerala

Decided On : Dec-26-2023

Judge : Honourable Mr.Justice P.G. Ajithkumar

Appeal No. : Bail Appl./11400/2023

Appellant : Mathew E.C

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR
TUESDAY, THE 26TH DAY OF DECEMBER 2023 / 5TH POUSHA,
1945 CRIME NO.3885/2023 OF Ernakulam Central Police Station,
Ernakulam AGAINST THE ORDER/JUDGMENT CMP 15474/2023 OF
CHIEF JUDICIAL MAGISTRATE, ERNAKULAM
PETITIONER(S)ACCUSED 6, 7 & 8:

1 MATHEW E.C AGED 62 YEARS, S/O. CHACKO, EDATTAMKUZHIYIL
HOUSE, KORANGAD, THAMARASSERY P.O, KEDAVOOR,
KOZHIKODE, PIN - 673573 2 HEMANTH SEBASTIAN AGED 32
YEARS, S/O. DEVASIA, CITTATTUVADAKKEL HOUSE,

PONNAMKAYAM, POST THIRUVAMPADI, KOZHIKODE, KERALA, PIN - 673603 3 THOMAS MATHEW AGED 21 YEARS, S/O. MATHEW E.C, EDATTAMKUZHIYIL HOUSE, KORANGAD, THAMARASSERY P.O, KEDAVOOR, KOZHIKODE, PIN - 673573 BY ADVS. P.SANJAY PAUL VARGHESE (PALLATH) RAHUL RAJ P.

RESPONDENT(S): STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 SMT. REKHA.S, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.G. AJITHKUMAR, J.

----- B.A.No. 11400 of 2023
----- Dated this the 26th day of
December, 2023

ORDER

This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973.

2. The petitioners are accused Nos.6 to 8 in Crime No.3885 of 2023 of Central Police Station, Ernakulam. They alleged to have committed the offences punishable under Sections 365, 506, 323 r/w 34 of IPC.

3. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

4. The prosecution allegation is that on 14.12.2023, the

accused No.1 intimated the defacto complainant that a sum of Rs.2 Crores will be deposited in Axis Bank, Rajaji Road Branch, Ernakulam, towards TPF Business, being run by the defacto complainant on behalf of the Mercellus Company, Mumbai.

Accordingly, a business deal was processed and accused Nos. 1 to 8 paid a sum of Rs.2,00,000/- as slotting amount. But the business deal could not be fulfilled. The accused due to that took the defacto complainant and his friend in a car at 3.00 pm on the same day from Rajaji Road and kept them in captive and physically assaulted the defacto complainant. The accused persons also had subjected the defacto complainant to intimidation. They did so in furtherance of their common intention.

5. The petitioners would contend that they did not involve

in the alleged crime and without any material or evidence, they have been implicated in the crime. They are innocent. The investigation in the matter has been progressed considerably and there is no reason or justification for their further detention.

6. The learned Public Prosecutor would submit that

considering the seriousness of the offence and the possibility of interfering with the investigation by the petitioners, in the event of their release on bail, this petition deserve only to be dismissed. The learned Public Prosecutor further would submit that accused Nos.2 to 5 are still at large and if the petitioners are granted bail,

there is every possibility for their interfering with the investigation. Arrest of accused Nos.2 to 5 may also be impossible, in the event of releasing the petitioners on bail. Accordingly, learned Public Prosecutor seeks to dismiss the petition.

7. The learned counsel for the petitioners further

submitted that having the petitioners and the 1 st accused along with the de-facto complainant appeared before the Station House Officer on 15.12.2023, it cannot be said that the petitioners have any guilty intention. The learned Magistrate considered not only that aspect but also other circumstances of the case while declining bail to the petitioners. Two other reasons for denying the bail by the Magistrate are that prima facie commission of offences is revealed from the materials on record and that the petitioners, in the event of their release on bail,

may interfere with the investigation and tamper with the evidence.

8. In the circumstances of the case including that the

petitioners appeared before the Station House Officer on 15.12.2023, I am of the view that their release on bail in the stage would not cause any hurdle to proper investigation in the matter.

They have been in custody since 15.12.2023 and therefore the Investigating Officer obtained sufficient time to collect necessary evidence. It is submitted by the learned counsel for the petitioners that marriage of brother of the 2nd petitioner is scheduled to be solemnized on 30.12.2023. Taking all such aspects in to account, I am of the view that petitioners can be released on bail subject to conditions.

In the result, the bail application is allowed and the petitioners are granted bail on their executing a bond for Rs.50,000/- (Rupees fifty thousand only) each, with two solvent sureties for the like amount each, to the satisfaction of the learned Magistrate, subject to the following conditions:

- (i) Petitioners shall not influence or intimidate witnesses or tamper with evidence;
- (ii) Petitioners shall appear before the investigating officer as and when called for; and
- (iii) During the bail period, they shall not get involved in any offence.
- (iv) The petitioners shall surrender their passport before the Investigating Officer and if they do not have passports, they shall file affidavits to that effect. In case of breach any of the bail conditions, the prosecution

shall be at liberty to apply for cancellation of the bail before the jurisdictional court.
Sd/- P.G. AJITHKUMAR JUDGE nak APPENDIX OF BAIL APPL. 11400/2023
PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE TRANSFER
DETAIL DATED 14-12-2023 Annexure A1(a) TRUE COPY OF THE TRANSFER
DETAIL DATED 14-12-2023 Annexure A1(b) TRUE COPY OF THE TRANSFER
DETAIL DATED 14-12-2023 Annexure A2 TRUE COPY OF THE TRANSACTION
OF RS.25,000 WAS TRANSFERRED BY 2ND PETITIONER ACCOUNT FROM

THE SBI KODUVALLY BRANCH Annexure A3 TRUE COPY OF THE ID CARD
DETAILS OF DEFACTO COMPLAINANT Annexure A4 TRUE COPY OF THE FIR
DATED 15/12/2023 Annexure A5 TRUE COPY OF THE REMAND REPORT
DATED 15.12.2023 Annexure A6 TRUE COPY OF THE COMPLAINT DATED 15-
12- 2023 GIVEN TO THE CITY POLICE COMMISSIONER Annexure A7 TRUE
COPY OF THE MARRIAGE DETAILS FROM ST. AUGUSTINE'S CHURCH
VETTELAPPARA DATED 18-12-2023 Annexure A8 TRUE COPY OF THE ORDER
OF CJM, ERNAKULAM IN CMP 15474/2023 DATED 18-12-2023

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