

Muhammed vs State of Kerala

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Court : Kerala

Decided On : Feb-14-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./99/2022

Appellant : Muhammed

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
MONDAY, THE 14TH DAY OF FEBRUARY 2022 / 25TH MAGHA, 1943
BAIL APPL. NO. 99 OF 2022 CRIME NO.1363/2021 OF Vadakara Police
Station, Kozhikode PETITIONER/ACCUSED: MUHAMMED AGED 43
YEARS S/O.SOOPPY, NARANATH THAZHEKUNI HOUSE, PO
THIRUVALLOOR, VATAKARA TALUK, KOZHIKODE DT. - 673 541. BY
ADV ZUBAIR PULIKKOOL RESPONDENT/COMPLAINANT: STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM - 682 031. SMT. SEETHA S., SR. PP THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
14.02.2022, THE COURT ON THE SAME DAY DELIVERED THE

ORDER

This is an application for anticipatory bail.

2. Petitioner is the sole accused in Crime No.1363/2021 of Badagara police station, alleging commission of offences under Sections 341, 324 and 308 of the Indian Penal Code.

3. Allegation against the petitioner is that the petitioner

attacked the de facto complainant with a knife intending to cause his death. It is alleged that the attack was ward off by the de facto complainant resulted in a deep abrasion on his stomach.

4. Learned counsel appearing for the petitioner would

submit that the petitioner is absolutely innocent in the matter. It is submitted that there was a minor scuffle between the petitioner and the de facto complainant owing to the fact that there are some partnership disputes between the petitioner and the de facto complainant. Reference in this regard is made to Annexure A2 produced along with Crl.M.A. No.1/2022, which is a lawyer notice issued at the instance of the petitioner to the de facto complainant and others. It is submitted that the sending of the lawyer notice and the dispute relating to the partnership resulted in a minor scuffle between the petitioner and the de facto complainant , as a result of which both of them suffered injuries.

BAIL APPL. NO. 99 OF 2022 3 It is submitted that while the de facto complainant preferred a complaint against the petitioner, the petitioner did not prefer any complaint against the de facto complainant, despite being injured.

5. I have heard the learned Public Prosecutor also.

Learned Public Prosecutor submits that there is a deep abrasion on the stomach of the de facto complainant caused by a knife used by the petitioner which, is yet to be recovered.

6. Having regard to the facts and circumstances of the

case and considering the fact that there are partnership disputes between the petitioner and the de facto complainant and taking note of the contents of Annexure A2, which is a lawyer notice issued by the petitioner to the de facto complainant and others relating to such disputes and also taking note of the fact that custody of the petitioner is not necessary for the proper investigation into the matter, I am of the opinion that anticipatory bail can be granted to the petitioner subject to strict conditions. However, it is made clear that the limited custody of the petitioner will be available to the prosecution for the purpose of any recovery under Section 27 of the Indian Evidence Act.

In the result, this application is allowed. It is directed that the petitioner shall be released on bail, in the event of arrest in BAIL APPL. NO. 99 OF 2022 4 crime No..1363/2021 of Badagara police Station subject to the following conditions:-

(i) Petitioner shall execute bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the likesum to the satisfaction of the jurisdictional Court;

(ii) Petitioner shall appear before the investigating officer in Crime No.1363/2021 of Badagara Police station at 09.00 am on 21.02.2022 and 22.02.2022 and thereafter, as and when called upon to do so;

(iii) The petitioner shall not attempt to contact the de facto complainant or interfere with the investigation or to influence or intimidate any witness in Crime No. 1363/2021 of Badagara police station;

(iv) The petitioner shall not involve in any other crime while

on bail. If any of the aforesaid conditions are violated, the investigating officer in Crime No. 1363/2021 of Badagara police station may file an application before the jurisdictional Court, for cancellation of bail. sd/- GOPINATH P., JUDGE ajt

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