

Alan, vs State of Kerala,

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Court : Kerala

Decided On : Jan-28-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./117/2022

Appellant : ALAN,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY,
THE 28TH DAY OF JANUARY 2022 / 8TH MAGHA, 1943 BAIL APPL.
NO. 117 OF 2022 CRIME NO.1202/2021 OF NORTH PARAVUR
POLICE STATION, ERNAKULAM AGAINST THE ORDER/JUDGMENT
IN CRMC 2834/2021 OF II ADDITIONAL DISTRICT
COURT, ERNAKULAM PETITIONERS/ACCUSED 1 & 2: 1 ALAN, AGED
23 YEARS S/O.DHARMENDRA, THAYANKARI KUNNATHERI HOUSE,
NEAR FACT MARKET, ELOOR VILLAGE, ERNAKULAM DISTRICT. 2
PRABIN, AGED 20 YEARS S/O.PRADEEP, THENATHIL PADINJARU
HOUSE, EZHIKKARA BYPASS, KOTTUVALLY VILLAGE, ERNAKULAM
DISTRICT. BY ADVS. K.NIRMALAN T.R.KRISHNADAS
RESPONDENT/COMPLAINANT: 1 STATE OF KERALA,

REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA. 2 INSPECTOR OF POLICE, NORTH PARAVUR POLICE STATION, ERNAKULAM DISTRICT.

OTHER PRESENT: SRI. NOUSHAD. K.A. (SR.PP) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.01.2022, ALONG WITH Bail Appl..141/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.117/2022 & conn.case 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY, THE 28TH DAY OF JANUARY 2022 / 8TH MAGHA, 1943 BAIL APPL. NO. 141 OF 2022 CRIME NO.1202/2021 OF NORTH PARAVUR POLICE STATION,ERNAKULAM PETITIONER/ACCUSED: RAHUL @ AMBADI AGED 20 YEARS NADUMURIPARAMBU HOUSE, NADUMURI COLONY, KAITHARAM, KOTTUVALLY P.O. ERNAKULAM, PIN - 683519 BY ADV A.C.DEVY RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 BY SRI.M.C. ASHI PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.01.2022, ALONG WITH Bail Appl..117/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.117/2022 & conn.case 3

ORDER

[Bail Appl. Nos.117/2022, 141/2022] These are applications for regular bail.

2. The petitioners in B.A.No.117/2022 are accused Nos.1 and 2 in

Crime No.1202/2021 of North Paravur Police Station and the petitioner in B.A.No.141/2022 is the 3rd accused in the very same crime, alleging commission of offences under Sections 141, 142, 143, 144, 146, 147, 148, 308, 324 and 326 r/w. Section 149 of the Indian Penal Code.

3. The allegation against the petitioners is that they along with other

accused in the case formed themselves into an unlawful assembly and assaulted the Barman of the 'White City Bar'. It is alleged that the Barman was attacked using a sword, an iron square pipe and also with another iron pipe and since the de facto complainant had dodged the attack with the sword, the sword hit him on his left forearm and caused a serious injury to him. The wound is described as a deep lacerated wound.

4. The learned counsel for the petitioners in these cases would

submit that the petitioners are absolutely innocent in the matter. It is submitted that there was some wordy altercation on account of the dispute in a Bar and that the petitioners had not attacked the Barman with any weapon as alleged. It is submitted that the 4th and 5th accused in the case have already been released on bail. It is submitted that the petitioners have been in custody

from 15.11.2021 and have completed more than 73 days in custody. It is submitted that a final report has been filed in the matter and continued detention of the petitioners is not necessary for the purpose of any B.A.No.117/2022 & conn.case 4 investigation.

5. The learned Public Prosecutor with reference to the wound

certificate in respect of the de facto complainant and the First Information Statement of the de facto complainant would point out that the de facto complainant had suffered serious injuries owing to the attack by the petitioners and the other accused. It is submitted that the petitioners have criminal antecedents. It is submitted that accused Nos.1 and 2 are involved in NDPS cases and accused No.3 is involved in a case alleging commission of offence under Section 326 of the Indian Penal Code.

6. Having regard to the facts and circumstances of the case and

considering the fact that the petitioners have been in custody for 73 days and also considering the fact that their continued detention may not be necessary for the

purpose of investigation as a final report has already been filed in the matter and taking a lenient view on account of the age of the petitioners, I am of the opinion that the petitioners can be granted bail, subject to conditions.

7. In the result, this bail application is allowed. It is directed that the petitioners shall be released on bail, subject to the following conditions:-

(i) The petitioners shall execute separate bonds for sums of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court;

(ii) The Petitioners shall report before the Investigating officer in Crime No.1202/2021 of North Paravur Police Station on every Saturday at 11 a.m until further orders; B.A.No.117/2022 & conn.case 5

(iii) The petitioners shall not attempt to influence or intimidate the de facto complainant or any witness in Crime No.1202/2021 of North Paravur Police Station;

(iv) The petitioners shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the Investigating officer in Crime No.1202/2021 of North Paravur Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/- GOPINATH P. JUDGE acd B.A.No.117/2022 & conn.case 6 APPENDIX OF BAIL APPL. 141/2022 PETITIONER ANNEXURES Annexure1 TRUE COPY OF THE ORDER IN CRL.M.C.NO.2834/2021 OF ADDL. DISTRICT & SESSIONS COURT, ERNAKULAM DATED 04/01/2022

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