

Joy vs State of Kerala

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Court : Kerala

Decided On : Jul-06-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./157/2022

Appellant : JOY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
WEDNESDAY, THE 6TH DAY OF JULY 2022 / 15TH ASHADHA, 1944
BAIL APPL. NO. 157 OF 2022 CRIME NO.2047 OF 2018 OF
VIZHINJAM POLICE STATION, THIRUVANANTHAPURAM DISTRICT
PETITIONER/A3: JOY, AGED 24 YEARS, S/O. JOHNSON, STELLA
BHAVAN, KOTTAPPURAM P.O., VIZHINJAM
THIRUVANANTHAPURAM, PIN - 695521 BY ADV SHAJIN S.HAMEED

RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 OTHER
PRESENT: PP - SRI. M.C.ASHI THIS BAIL APPLICATION HAVING COME UP
FOR ADMISSION ON 06.07.2022, THE COURT ON THE SAME DAY

DELIVERED THE FOLLOWING: B.A. No. 157 of 2022 2

VIJU ABRAHAM, J.

----- B.A. No. 157 of 2022 ----- Dated this the 6th day
of July, 2022

ORDER

This is an application for anticipatory bail.

2. Petitioner is the 3rd accused in Crime No.2047

of 2018 of Vizhinjam Police

294(b), 341, 323, 324, 308, 392 & 506 r/w 34 of IPC.

3. The prosecution allegation is that due to

enmity towards the defacto complainant for the reason that he lodged complaint
against 1st accused for hurling obscene words through whats app, on 20.12.2018
at 10.45 pm, the accused persons with an

intention to assault the defacto com

A1 hurled obscene words and using a weapon hided B.A. No. 157 of 2022 3 inside
his hand, hit on the forehead of defacto complainant and slapped on the left side
of his face. A2 using a bat tried to hit on the head of the defacto complainant,
which was warded off by him and thereby he sustained injury over his ear. A3
using a tube hit on the forehead of defacto complainant and it is further alleged
that A1 took away the gold chain and ring of defacto complainant. It is also alleged
that as per the instruction of A1, A4 to A7 kicked and fisted the defacto
complainant.

4. The petitioner submits that he is innocent of the allegations and he is falsely
implicated in the above said crime. Petitioner submits that there was another crime
registered in connection with the incident in which the 1st accused in the present

crime is the defacto complainant and Annexure-A is the FIR registered in the said crime as Crime No.44 of 2019 of Vizhinjam Police Station. It is also submitted by the petitioner that the issues have been settled between the parties and Annexure-D is B.A. No. 157 of 2022 4 the affidavit filed by the defacto complainant in the present crime, stating that he has no grievance or complaint as against the petitioner and the entire issues have been settled between them and submitted that he has no objection in the court passing any appropriate orders. The further case of the petitioner is that the 4th petitioner is already granted anticipatory bail as is evident from Annexure-E order.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

6. The learned Public Prosecutor opposed the application for bail and submitted that serious injuries were sustained by the defacto complainant, but the petitioner has no other criminal antecedents. It is seen that the present crime is registered as early as on 2018, it is seen that the

issues have been settled between the parties also.

It is seen that an interim order not to arrest the petitioner was issued by this Court on 14.2.2022 and B.A. No. 157 of 2022 5 it is continuing till now.

7. Having regard to the facts and circumstances

of the case, and considering the nature

directions. The petitioner shall surrender before the investigating officer on 15.07.2022. In the event of arrest of the petitioners in Crime No.2047 of 2018 of Vizhinjam Police Station, Thiruvananthapuram the petitioner shall be released on bail on the following conditions:

(i) The petitioner shall execute a bond for sum 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) Petitioner shall appear before the investigating officer in Crime No.2047/2018 of Vizhinjam Police Station as and when summoned to do so; B.A. No. 157 of 2022 6

(iii) Petitioner shall co-operate with the investigation and make himself available for interrogation whenever required;

(iv) Petitioner shall not tamper with any evidence;

(v) Petitioner shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the

facts of the case so as to dissuade him

from disclosing such facts to the court or to any police officer;

(vi) 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.2047/2018 of Vizhinjam Police Station, may file an application before this Court for cancellation of bail. It is made clear that it is within the power of the police to investigate the matter and if necessary to effect recoveries on the information if

B.A. No. 157 of 2022 7 any given by the petitioner even when the petitioner is on bail as per the judgment of the Apex Court in Sushila Aggarwal and others v. State (NCT of Delhi) and another (2020 (1) KHC 663). sd/- VIJU ABRAHAM,JUDGE pm

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