

Sumesh vs State of Kerala

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Court : Kerala

Decided On : Feb-16-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./319/2022

Appellant : Sumesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. WEDNESDAY, THE 16TH DAY OF FEBRUARY 2022 / 27TH MAGHA, 1943 BAIL APPL. NO. 319 OF 2022 CRIME NO.38/2022 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT PETITIONERS/ACCUSED: 1 SUMESH S/O.UNNIKRISHNAN, VILAKKATHRAPADI HOUSE SRK NAGAR, 2 FAISAL AGED 32 YEARS S/O.MOIDEENKUTTY,THANNIKKALPADI HOUSE, KAYARAMPARA,SRK NAGAR, P.O.PALAPPURAM, OTTAPALAM TALUK, PALAKKAD DISTRICT - 679 103. 3 JUNAID S/O.ABDU, THANNIKKAPADI HOUSE, KAYARAMPARA, SRK NAGAR, BY ADV P.JAYARAM RESPONDENTS: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. OTHER PRESENT: SMT. SEETHA. S (SR.P.P) THIS BAIL

APPLICATION HAVING COME UP FOR ADMISSION ON 16.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.319/2022 2

ORDER

This is an application for anticipatory bail.

2. The petitioners are accused Nos.1 to 3 in Crime No.38/2022 of Ottapalam Police Station, Palakkad District alleging commission of offences under Sections 341, 324, 308 r/w. Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that when the de facto

complainant and his friend Ramesh objected to the petitioners consuming liquor and Ganja in the shop of the 2nd petitioner/2nd accused, the petitioners attacked the de facto complainant and his friend and also some other friends of the de facto complainant with an iron rod as a result of which injuries were sustained by the de facto complainant. It is alleged that if the de facto complainant had not been able to ward off the attack, serious injury would have been occasioned to him which might have led to his death.

4. The learned counsel for the petitioners would submit that the

allegations are totally baseless. It is submitted that the injuries reported by the de facto complainant and his friends are minor injuries. It is submitted that the petitioners did not attack the de facto complainant and his friends as alleged. It is submitted that while there were some minor issues between the petitioners and the de facto complainant and his friends, they were not attacked in the

manner suggested by the prosecution. It is submitted that, at any rate, custodial interrogation of the petitioners is not necessary in the matter. B.A.No.319/2022 3

5. The learned Public Prosecutor opposes the grant of bail. It is submitted that going by the allegations raised, the de facto complainant and his

friends were attacked with an iron bar. It is submitted that the de facto complainant suffered an injury on his head and according to him, if he had not warded off the

attack, a further serious injury would have been occasioned to him. It is submitted that the provisions of Section 308 IPC are therefore clearly attracted in the case.

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

considering the nature of the allegations against the petitioners, I am of the view that the petitioners can be granted anticipatory bail subject to conditions. I am convinced that a proper investigation can be carried out without custodial interrogation.

7. In the result, this application is allowed. It is directed that the

petitioner shall be released on anticipatory bail, in the event of arrest in Crime No. 38/2022 of Ottapalam Police Station subject to the following conditions:-

(i) 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) Petitioners shall appear before the investigating officer in Crime No. 38/2022 of Ottapalam Police Station at 10 a.m. on 23.2.2022 and 24.2.2022 and thereafter whenever called upon to do so;

(iii) Petitioners shall not attempt to contact the de facto complainant or interfere with the investigation or to influence or intimidate any witness in B.A.No.319/2022 4 Crime No.38/2022 of Ottapalam Police Station;

(iv) 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.38/2022 of Ottapalam Police Station may file an application before the jurisdictional Court for cancellation of bail. sd/- GOPINATH P. JUDGE acd

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