

(1) Subin a.P vs State of Kerala Represented by Public Prosecutor

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Court : Kerala

Decided On : Feb-18-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./335/2022

Appellant : (1) Subin a.P

Respondent : State of Kerala Represented by Public Prosecutor

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY,
THE 18TH DAY OF FEBRUARY 2022 / 29TH MAGHA, 1943 BAIL
APPL. NO. 335 OF 2022 CRIME NO.829/2021 OF NADAKKAVU
POLICE STATION, KOZHIKODE PETITIONER/ACCUSED 1 & 2: 1 (1)
SUBIN A.P AGED 34 YEARS S/O. A.V. PAUL, , SUBIN NIVAS,
ANANTHAN BAZAR, VALAYANAD AMSOM, KOMMERI DESOM,
KOZHIKODE TALUK - 673 007., PIN - 673007 2 (2) BALAKRISHNAN
C.P AGED 46 YEARS S/O. KADUNGAN, , 5/1467, KATTUVAYAL
COLONY, ERANHIPALAM NADAKKAVU, KOZHIKODE - 673 006., PIN
- 673006 BY ADVS. NIRMAL.S VEENA HARI K. REMIYA
RAMACHANDRAN RIA ELIZABETH JOSEPH IRENE ELZA SOJI

RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM, COCHIN - 682 031, PIN - 682031 OTHER PRESENT: SRI. NOUSHAD K.A. (SR.PP) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A.No.335/2022 2

ORDER

This is an application for anticipatory bail.

2. The petitioners are the accused in Crime No.829/2021 of Nadakkavu Police Station, Kozhikode District, alleging commission of offences under Sections 341, 323, 324, & 326 r/w. Section 34 of the Indian Penal Code.

3. The allegation against the petitioners is that on 9.12.2021 at 10.30

a.m., when the de facto complainant was waiting for an auto, the petitioners along with the other accused in the case assaulted him with an iron rod and fisted him causing serious injuries to him on his face, chest and right leg. It is alleged that the de facto complainant suffered fracture on his ribs owing to the attack.

4. The learned counsel appearing for the petitioners would submit that the 2nd petitioner is the step brother of the de facto complainant and the 1st

petitioner is the son-in-law of the 2 nd petitioner. It is submitted that the de facto complainant used to assault and abuse his wife and the petitioners used to come to her rescue. It is submitted that the de facto complainant is a known 'goonda' and is involved in as many as seven criminal cases, out of which two cases are registered alleging the commission of offences under Section 307 of the Indian Penal Code. It is submitted that the petitioners have been falsely roped in on account of the fact that they used to support the wife of the de facto complainant. It is submitted that in connection with a complaint filed by the wife of the de facto complainant, he was in custody till 8.12.2021

and that the alleged incident in this case happened on 9.12.2021. It is B.A.No.335/2022 3 submitted that, at any rate, the custodial interrogation of the petitioners is not necessary for the purposes of proper investigation into the matter.

5. I have heard the learned Public Prosecutor also.

6. The learned Public Prosecutor with reference to the wound certificate issued in respect of the de facto complainant and the First Information Statement of the de facto complainant would submit that serious

injuries were caused to the de facto complainant. It is submitted that, according to the information given by the de facto complainant, the petitioners were clearly involved in the attack on him, on 9.12.2021. It is submitted that the custody of the petitioners is absolutely essential for the purposes of interrogation.

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

taking into account the submissions made by the learned counsel for the petitioners and the learned Public Prosecutor, I am of the view that the proper investigation into Crime No. 829/2021 of Nadakkavu Police Station will not require custodial interrogation of the petitioners.

8. In the result, this bail application is allowed making it clear that

the limited custody of the petitioners will be available with the prosecution for the purposes of investigation. It is, therefore, directed that in the event of arrest in Crime No. 829/2021 of Nadakkavu Police Station, the petitioners shall be released on bail 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 B.A.No.335/2022 4 the satisfaction of the jurisdictional Court;

(ii) Petitioners shall appear before the investigating officer in Crime No.829/2021 of Nadakkavu 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 Crime No.829/2021 of Nadakkavu 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.829/2021 of Nadakkavu Police Station may file an application before the jurisdictional Court for cancellation of bail. sd/- GOPINATH P. JUDGE acd B.A.No.335/2022 5 APPENDIX OF BAIL APPL. 335/2022 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE ORDER DATED SESSION-V, KOZHIKODE DIVISION IN CRL. M.C. NO. 1791/2021 IN CRIME NO. 829/2021 OF NADAKKAVU POLICE STATION, KOZHIKODE

Annexure A2 TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 829/ 2021 OF NADAKKAVU POLICE Annexure A3 TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 695/2021 OF NADAKKAVU POLICE Annexure A4 TRUE COPIES OF THE OP TICKET OF SHYAMILI, JAYASUDHA AND LINITHA DATED 26/11/2021 ISSUED BY THE GOVT. GENERAL HOSPITAL (BEACH), CALICUT Annexure A5 TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 801/2021 OF NADAKKAVU POLICE Annexure A6 TRUE COPY OF THE RECEIPT DATED 05/01/2022 ISSUED FROM THE NADAKKAVU POLICE STATION, KOZHIKODE

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