

Jayesh T.B. 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./437/2022

Appellant : Jayesh T.B.

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,
BAIL APPL. NO. 437 OF 2022 CRIME NO.837/2021 OF RAJAKKAD
POLICE STATION, IDUKKI DISTRICT PETITIONERS/ACCUSED:

1 JAYESH T.B., AGED 35 YEARS THEKKEDATH HOUSE, PONMUDI
P.O, RAJAKKAD VILLAGE IDUKKI, PIN - 695563 2 ANOOP T.M. @
MONU, AGED 35 YEARS THEKKEL HOUSE, CHERUPURAM KARA,
RAJAKKAD P.O. RAJAKKAD VILLAGE, PIN - 685566 3 ARUN K.
ARAVINDH, AGED 35 YEARS KOTTARATHIL HOUSE, RAJAKKAD
P.O, RAJAKKAD VILLAGE, PIN - 685566 4 JINCE

MATHEW@KOCHERI, AGED 35 YEARS KOCHERIPADAVIL HOUSE, MAMMATTIKANAM P.O, AMBALAKAVALA, RAJAKKAD VILLAGE, PIN - 685566 5 SANOOP C.R, AGED 26 YEARS CHOOZHUKUNNEL HOUSE, MAMMATTIKANAM P.O, MAMMATTIKANAM, RAJAKKAD VILLAGE, PIN - 685566 6 RAJESH C.R., AGED 30 YEARS CHOOZHUKUNNEL HOUSE, MAMMATTIKANAM P.O, MAMMATTIKANAM, RAJAKKAD VILLAGE, PIN - 685566 BY ADVS. PEEYUS A.KOTTAM ARJUN S BENEDICT ..2..

RESPONDENT: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 OTHER PRESENT: SRI. T.R RENJITH (SR. P.P) THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ..3..

ORDER

This is an application for anticipatory bail.

2. The petitioners are the accused in Crime No. 837 of 2021 of

Rajakkad Police Station, Idukki District, which was registered alleging commission of offences under Sections 143, 147, 294(b), 447, 323, 324 & 325 r/w Section 149 of the Indian Penal Code .

3. The allegation against the petitioners is that on 18.12.2021, they

attacked the de facto complainant. It is also alleged that the de facto complainant and his mother were intimidated and abusive words were used by the accused in this case. It is also alleged that when the mother of the de facto complainant fell down, the petitioners or some among them had attacked her as well. It is also alleged that the petitioners also threw something into the house of the de facto complainant.

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

bailable offences were incorporated in Crime No. 837 of 2021 after the statement of the de facto complainant was recorded and thereafter, non bailable offences including those under Sections 326 and 354 of the Indian Penal Code were also incorporated only ..4.. owing to the influence of the de facto complainant. It is submitted that even if the entire allegations are taken as true, there is nothing to suggest that the offences under Sections 326 and 354 of the Indian Penal Code have been committed by the accused in this case. It is further submitted that owing to an earlier issue between the petitioners and the de facto complainant, the 4th petitioner had filed a complaint, which led to the registration of Crime No.838 of 2021 of the Rajakkad Police Station against the de facto complainant and others. It is also submitted, with reference to Annexures A2 and A3, that petitioners 4 and 5 had suffered injuries owing to the attack by the de facto complainant and others as is evident from their treatment records. It is further submitted that, at any rate, the custodial interrogation of the petitioners is not necessary for the purpose of any investigation.

5. The learned Public Prosecutor opposes grant of bail. It is

submitted, with reference to the First Information Statement of the de facto complainant, that the offences alleged against the petitioners are clearly attracted. Going by the First Information Statement of the de facto complainant, there is a clear allegation that the mother of the de facto complainant was attacked with a wooden stick, which is sufficient to attract the offence under ..5.. Section 326 as well as the offence under Section 354 of the Indian Penal Code. It is submitted that the mother of the de facto complainant allegedly suffered a fracture owing to the attack by the petitioners. It is further submitted that the petitioners are not entitled to anticipatory bail.

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

considering the nature of the allegations against the petitioners and considering the fact that there is a case and counter case and also taking note of the fact that petitioners 4 and 5 have suffered injuries allegedly owing to the attack by the de facto complainant and others, I am of the view that the petitioners can be granted anticipatory bail. The custodial interrogation of the petitioners may not be necessary for a proper investigation into the matter.

In the result, this application is allowed and it is directed that the petitioners shall be released on bail, in the event of their arrest in connection with Crime No. 837 of 2021 of Rajakkad Police Station, Idukki District, subject to the following conditions:

(a) Petitioners shall execute separate bonds for a sum of Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the ..6.. jurisdictional court.

(b) Petitioners shall co-operate with the investigation and

appear before the investigating officer in Crime No. 837 of 2021 of Rajakkad Police Station, Idukki District, at 10 am on 23.02.2022 and 24.02.2022 and thereafter, whenever called upon to do so;

(c) Petitioners shall not attempt to interfere with the investigation or to influence or intimidate the de-facto complainant or any witness in Crime No. 837 of 2021 of Rajakkad Police Station, Idukki District; (d) Petitioners shall not involve in any other crime while on bail.

If any of the aforesaid conditions is violated, the investigating officer in Crime No. 837 of 2021 of Rajakkad Police Station, Idukki District, may file an application before the jurisdictional court, for cancellation of bail. Sd/- GOPINATH P. JUDGE
bka/16.02.2022

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