

Harikumar 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./474/2022

Appellant : Harikumar

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. 474 OF 2022 CRIME NO.1019/2020 OF
SREEKARYAM POLICE STATION, THIRUVANANTHAPURAM CITY
PETITIONER/S: 1 HARIKUMAR

AGED 54 YEARS S/O. MADHAVAN NAIR, AMBATTU HOUSE,
MALAKUNNAM P.O, CHANGANACHERRY, KOTTAYAM DISTRICT, P
IN - 686535. 2 SWAPNA AGED 48 YEARS W/O. HARIKUMAR,
AMBATTU HOUSE, MALAKUNNAM P.O, CHANGANACHERRY,
KOTTAYAM DISTRICT, P IN - 686535. 3 RAJEEV R NAIR AGED 42

YEARS S/O.T.G.RAMAKRISHNA PILLAI, THEKKE KOLIL APSARA BHAVAN, ITHITHANAM P.O, KURICHI, KOTTAYAM DISTRICT, PIN - 686535. 4 JAYA SREEKUMAR AGED 52 YEARS W/O. SREEKUMAR, SREENILAYAM (LAKSHMI NIVAS), VECHOOCHIRA P.O, VECHOOCHIRA, RANNI, PATHANAMTHITTA DISTRICT, PIN - 686511. BY ADVS. M.P.MADHAVANKUTTY MATHEW DEVASSI

RESPONDENT/S: ..2.. 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031. 2 PADIMINI NAIR AGED 58 YEARS D/O. JANAKI AMMA, T.C. 8/1098, MURALIKA HOUSE, UDAYAGIRI, SREEKARYAM, THIRUVANANTHAPURAM CITY, PIN - 695017. 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 accused Nos 1 to 4 in Crime No. 1019 of 2020 of

Sreekaryam Police Station, Thiruvananthapuram City, which was registered alleging commission of offence under Section 420 r/w Section 34 of the Indian Penal Code .

3. The allegation against the petitioners is that they obtained money

from the de facto complainant on the promise of completing construction of a building for the de facto complainant and thereafter, they failed to complete the construction.

4. The learned counsel for the petitioners submits that even assuming

that all the allegations in the complaint given by the de facto complainant against the petitioners are true, the dispute is purely of civil nature and

the criminal law could not have been set in motion. It is submitted that, at any rate, custodial interrogation of the petitioners is not necessary for the purpose of any investigation.

5. I have heard the learned Public Prosecutor also. The learned Public

Prosecutor submits that the case is under investigation. It is submitted that going by the complaint given by the de facto complainant, huge amounts of money were received by the ..4.. petitioners and thereafter, they failed to complete the construction of the building for the de facto complainant.

6. Though the de facto complainant is a party to this application, considering the nature of the allegations raised, I do not deem it necessary to issue notice to the de facto complainant.

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

facie being convinced that even if the entire allegations in the First Information Statement are true, the dispute is purely of civil nature, I am of the view that the petitioners can be granted anticipatory bail subject to conditions. 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. 1019 of 2020 of Sreekaryam Police Station, Thiruvananthapuram City, 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 jurisdictional court.

(b) Petitioners shall co-operate with the investigation and ..5.. appear before the investigating officer in Crime No. 1019 of 2020 of Sreekaryam Police Station, Thiruvananthapuram City, 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. 1019 of 2020 of Sreekaryam Police Station, Thiruvananthapuram

City; (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. 1019 of 2020 of Sreekaryam Police Station, Thiruvananthapuram City, may file an application before the jurisdictional court, for cancellation of bail. It is made clear that any observation contained in this order is only for considering the entitlement of the petitioners for bail and shall not be treated as findings by this Court, on any point.
Sd/- GOPINATH P. JUDGE bka/16.02.2022

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