

Jayesh vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1445757

Court : Kerala

Decided On : Feb-22-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./698/2022

Appellant : Jayesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
TUESDAY, THE 22ND DAY OF FEBRUARY 2022 / 3RD PHALGUNA,
1943 PETITIONER: JAYESH AGED 35 YEARS SON OF MOHANAN,
KURANIYIL, PALIYAMANGALAM, AYILUR, PALAKKAD. PALAKKAD,
PIN - 678510 BY ADV V.A.JOHNSON (VARIKKAPPALLIL)
RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN -
682031 BY ADV PUBLIC PROSECUTOR SMT. SEETHA .S. (SR.PP)
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
22.02.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER

Petitioner is the first accused in Crime No.24/2022 of the Nenmara Police Station, Palakkad district alleging commission of offences under Sections 341, 323, 324 of the IPC.

2. The allegation against the petitioner is that, owing to

animosity arising out of the defacto complainant restraining the petitioner and other accused from taking photos on their mobile phones without permission, the petitioner along with the other accused attacked the defacto complainant and his friend as a result of which the friend of the defacto complainant suffered fracture on his elbow and the defacto complainant suffered a fracture on his bone beneath his eyes.

3. Learned counsel for the petitioner submits that the

petitioner is innocent in the matter. It is submitted that when the defacto complainant and his friends were consuming alcohol in the property of the petitioner's wife and this was questioned, the defacto complainant and his friends had attacked the petitioner and the other accused in the case, as a result of which petitioner and his friend also sustained injuries. It is also submitted that the petitioner also suffered a fracture following which Crime No.25/2022 of the very same Police Station was registered against

the defacto complainant and others. It is submitted that the defacto complainant in this case was the actual aggressor and the petitioner and other accused in Crime No.24/2022 had only defended themselves.

4. Heard the learned Public Prosecutor also. Learned

Public Prosecutor points out that the defacto complainant and his friends had suffered serious injuries owing to the alleged attack by the petitioner and his friends. It is submitted that the crime registered at the instance of the petitioner herein can only be seen as a counter blast to the crime registered against him by the

defacto complainant in this case. It is submitted that the petitioner is not entitled to be released on bail. However, no criminal antecedents are reported against the petitioner.

5. Having regard to the facts and circumstances of the

case and considering the nature of the allegations against the petitioner, I am of the view that proper investigation in Crime No.24/2022 of Nenmara Police Station, Palakkad can be carried out without custodial interrogation of the petitioner.

6. In the result, this bail application is allowed. It is

directed that the petitioner shall be released on anticipatory bail, in the event of his arrest in connection with Crime No.24/2022 of Nenmara Police Station subject to the following conditions:-

(i) Petitioner shall execute bond 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;

(ii) Petitioner shall appear before the investigating officer as in Crime No.24/2022 of Nenmara Police Station as and when called upon to do so;

(iii) Petitioner shall not attempt to interfere with the investigation, influence or intimidate any witness in Crime No.24/2022 of Nenmara Police Station;

(iv) 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.24/2022 of Nenmara Police Station may file an application before the jurisdictional Court for cancellation of bail.

Sd/- GOPINATH P. JUDGE AJ APPENDIX OF BAIL APPL. 698/2022
PETITIONER ANNEXURES Annexure1 CITIZEN COPY OF THE F.I.R.NO.24 OF
2022 OF NENMARA POLICE STATION, PALAKKAD DATED 12.01.2022
Annexure2 CITIZEN COPY OF THE F.I.R.NO.25 OF 2022 OF NENMARA
POLICE STATION, PALAKKAD DATED 13.01.2022