

Ismail vs State of Kerala

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Court : Kerala Orders

Decided On : Jun-29-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./967/2022

Appellant : Ismail

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS WEDNESDAY, THE 29TH DAY OF JUNE 2022 / 8TH ASHADHA, 1944 (CRIME NO.563 OF 2021 NATTUKAL POLICE STATION, PALAKKAD) PETITIONER/S: 1 ISMAIL AGED 26 YEARS 2 MUHAMMED ANVAR. N. AGED 22 YEARS 3 FAIZAL ERATTAPILAKKAL ERATTAPILAKKAL HOUSE, MUTHIRAMANNA, THAZHEKODE WEST POST, PERINTHALMANNA BY ADV SAHEERA RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 2 STATION HOUSE OFFICER NATTUKAL POLICE STATION, PALAKKAD DISTRICT, PIN - 678583 BY ADVS. ADDL.DIRECTOR

GENERAL OF PROSECUTION OTHER PRESENT: SR.PP SRI.C.K SURESH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

===== B.A.No.967 of 2022
----- Dated this the 29th day of June,
2022

ORDER

This is an application seeking pre-arrest bail filed under Section 438 of the Code of Criminal Procedure, 1973.

2. Petitioners are accused in Crime No.563/2021 of Nattukal

Police Station. The offences alleged against the petitioners are under Sections 143, 147, 148, 452, 323, 324, 307, 392, 363 r/w Section 149 of the Indian Penal Code, 1860.

3. The prosecution case is that accused persons 10 in

number on account of an enmity with the defacto complainant formed themselves into an unlawful assembly and criminally trespassed into the house of the defacto complainant on 19.12.2021 at 08.05 pm, armed with deadly weapons and assaulted the wife and mother of the defacto complainant apart from attempting to murder them and inflicted serious injury on the head, and robbed an amount of Rs.73,200/- of the defacto complainant and thereafter kidnapped the defacto complainant, thus committing the offences alleged against them.

4. Smt.Saheera Noufal, learned Counsel for the petitioners vehemently contended that the entire prosecution case is false and

that the defacto complainant is understood to have suffered the injuries due to other causes, however, due to the enmity with the petitioner, entire blame is now put upon them. It was further submitted that the incident as alleged had never occurred and that the defacto complainant is monetarily indebted to several persons and the crime is alleged to hoodwink the creditors and to avoid payment.

5. Sri.C.K. Suresh, learned Public Prosecutor on the other

hand contended that defacto complainant had sustained serious injuries including a head injury due to the use of deadly weapons by the petitioners and that custodial interrogation of the petitioners as well as other accused are essential. He further submitted that, if the petitioners are granted pre-arrest bail, the entire investigation case would be prejudiced.

6. On a perusal of case diary, the wound certificate and

other documents, I am of the view that custodial interrogation of the petitioners are essential. Taking note of the gravity of allegations, the nature of injuries caused and the circumstances alleged, I am satisfied that this is not a fit case where petitioner ought to be released on pre-arrest bail. Accordingly, this bail application is dismissed. sd/ BECHU KURIAN THOMAS JUDGE jm/

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