

Vedavathi vs State of Kerala

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Court : Kerala Orders

Decided On : Apr-26-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./2296/2022

Appellant : Vedavathi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
TUESDAY, THE 26TH DAY OF APRIL 2022 / 6TH VAISAKHA, 1944
BAIL APPL. NO. 2296 OF 2022 CRIME NO.238/2022 OF ADHUR
POLICE STATION, KASARGOD PETITIONER/ACCUSED NO.2 AND 3:
1 VEDAVATHI AGED 59 YEARS W/O CHENNAPPA, R/AT
PALLAPPADI KASARGOD DISTRICT: 671531. 2 MALIKA AGED 35
YEARS W/O RAVI, R/AT PALLAPPADI BY ADVS. ROSIN JOSEPH
AMRITA ARUN RESPONDENT/COMPLAINANT & STATE: 1 STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, PIN - 682031 2 STATION HOUSE OFFICER (CRIME NO.
238 OF 2022) ADHUR POLICE STATION, PIN - 671543 THIS BAIL

APPLICATION HAVING COME UP FOR ADMISSION ON 26.04.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Dated this the 26th day of April, 2022 This is an application filed u/s 438 of Code of Criminal Procedure seeking pre-arrest bail.

2. The petitioners are the accused Nos.2 and 3 in Crime No.238/2022 of Adhur Police Station. The offences alleged are under Sections 353, 332 and 34 of the IPC.

3. The prosecution case in short is that on

10.03.2022 at 12.30, when the police went to arrest the first accused in respect to Crime No.842/2021, the accused resisted the arrest and assaulted the defacto complainant and others causing injuries and thereby committed the offence.

4. Heard both sides and perused the case diary.

5. The learned counsel for the petitioners

submitted that the petitioners are absolutely innocent and they have been falsely implicated in the present case. He further submitted that there are no materials to connect the petitioners with the alleged crime and hence they are entitled to get bail. The learned Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioners and if the petitioners are released on bail at this stage, it would affect the course of investigation.

6. The law with regard to the grant or refusal of

pre-arrest bail is well settled. Pre-arrest bail cannot be granted as a matter of course. The power u/s 438 of Cr.P.C could be exercised only when a special case is made out, that too, recording reasons thereof. Perusal of the case diary would reveal that the accusation made against

the petitioners is well founded. The allegations made against them are very serious in nature and it prima facie show a premeditated criminal act on their part. The investigation is in a preliminary stage. The custodial interrogation of the petitioners is necessary for the purpose of investigation. As rightly argued by the learned Public Prosecutor, the possibility of the petitioners influencing the witnesses and interfering with the investigation cannot be ruled out if they are released

on bail. Hence, considering the gravity of the offence and stage of investigation, I feel that it is not a fit case where extra ordinary jurisdiction vested with this Court u/s 438 of Cr.P.C. could be invoked. The application is only to be dismissed. In the result, the bail application is dismissed. Sd/- DR. KAUSER EDAPPAGATH JUDGE
SKP/26.04

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