

Abeesh vs State of Kerala

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Court : Kerala

Decided On : Jun-30-2022

Judge : Honourable Mr.Justice Viju Abraham

Appeal No. : Bail Appl./3438/2022

Appellant : Abeesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE VIJU ABRAHAM
THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944
BAIL APPL. NO. 3438 OF 2022 CRIME NO.283/2022 OF Kattoor Police
Station, Thrissur PETITIONER/S: 1 ABEESH AGED 27 YEARS
ANAKATHIPARAMBIL HOUSE, EDATHIRINJI, KATTOOR, THRISSUR
DISTRICT, PIN - 680122 2 SUKUMARAN AGED 70 YEARS
ANAKATHIPARAMBIL HOUSE, EDATHIRINJI, KATTOOR, THRISSUR
DISTRICT, PIN - 680122 BY ADVS.K.R.ARUN KRISHNAN JERRY
MATHEW P.K.VARGHESE M.T.SAMEER P.S.ANISHAD SANJANA
RACHEL JOSE REGHU SREEDHARAN RAMEEZ M. AZEEZ
RESPONDENT/S:

1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 ADDL.2 RAHUL NJAREKKADAN HOUSE, MANAKKULANGARA P.O. KODAKARA VILLAGE, THRISSUR (IMPEADED AS ADDL.R2 AS PER ORDER DATED 30.06.2022 IN CRL.MA.NO.1/2022) BY ADV V. P. LISAN

OTHER PRESENT: SR.PP - SMT. SEETHA S. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30.06.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: B.A. No.3438 of 2022 :2:

VIJU ABRAHAM, J.

--- B.A. No.3438 of 2022 ---

-- Dated this the 30th day of June, 2022

ORDER

This is an application for anticipatory bail.

2. The petitioners are accused Nos. 1 and 2 in Crime

No.283/2022 of Kattoor Police Station, Thrissur District, alleging commission of offence punishable under Sections 341, 323, 324, 326, 427 and 34 of Indian Penal Code.

3. The prosecution allegation is that, on 17.04.2022, at 8 am,

when the defacto complainant along with his father went to the house of the petitioners to enquire into the alleged complaint made by defacto complainant's sister who is the wife of the 1 st petitioner, the accused assaulted the defacto complainant and his father, wrongfully restrained them and attacked them with his hand and a cement brick, whereas the 2 nd accused attacked the defacto complainant with a stick and broke the glass of the defacto complainant's car, and thereby committed the above said offenses.

4. The learned counsel for the petitioners submitted that B.A. No.3438 of 2022 :3: the allegations raised against them are false and that the 2 nd accused is a person aged 70 years and he is ailing with cardiac diseases. It is also submitted that the petitioners are innocent

and they have no other criminal antecedents. The case of the petitioners is that it is the defacto complainant and his father who came to the house of the petitioners herein and attacked the mother of the 1st petitioner herein. It is in order to escape from the said criminal liability that the present false case has been registered and as regards the said incident, a complainant has been preferred by the mother of the 1st petitioner, as Annexure A2

before the Superintendent of Police, Thrissur Rural. The petitioners further submit that there are no other criminal antecedents as against them.

5. The learned Public Prosecutor opposed the bail

application and submitted that the injuries suffered by the defacto complainant are very severe, but submitted that the petitioners are not involved in any other crime.

6. It is seen that the defacto complainant is impleaded in the bail application. Along with the impleading petition, the defacto complainant has produced an affidavit stating that the complaint B.A. No.3438 of 2022 :4:

was filed only because of a misunderstanding and that there is no dispute between them and that they have no objection in this Court passing appropriate orders in the bail application.

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

and considering the fact that the petitioners are relatives and the 2nd petitioner is aged about 70 years and further that they have no other criminal antecedents, I am inclined to grant bail to the petitioners subject to stringent conditions. In the result, this application is allowed. The petitioners shall surrender before the investigating officer on 7 th July, 2022, at 11 a.m. and subject themselves for interrogation and in the event of arrest in Crime

No.283/2022 of Kattoor Police Station, Thrissur District, petitioners shall be released on bail, subject to following conditions:-

(i) Petitioners shall execute bond for a sum of Rs.50,000/- (Rupees fifty thousand only) each, with two solvent sureties each, for the like-sum to the satisfaction of the Arresting officer ;

(ii) Petitioners shall also appear before the investigating officer in Crime No.283/2022 of B.A. No.3438 of 2022 :5: Kattoor Police Station, Thrissur District as and when summoned to do so;

(iii) The petitioners shall not involve in any other crime while on bail.

7. If any of the aforesaid conditions are violated, the

investigating officer in Crime No.283/2022 of Kattoor Police Station, Thrissur District may file an application before the jurisdictional Court, for cancellation of bail. It is made clear that it is within the power of the police to investigate the matter and if necessary to effect recoveries on the information if any given by any of the petitioners even when the petitioners are on bail as per the judgment of the Apex Court in Sushila Aggarwal and others v. State(NCT of Delhi) and another(2020(1)KHC 663) Sd/- VIJU ABRAHAM JUDGE sm/ B.A. No.3438 of 2022 :6: APPENDIX OF BAIL APPL. 3438/2022 PETITIONER ANNEXURES Annexure - 1 A TRUE COPY OF THE FIR DATED 21.04.2022 OF CRIME NO.283/2022 OF KATTOOR POLICE STATION, THRISSUR DISTRICT Annexure - 2 A TRUE COPY OF THE COMPLAINT GIVEN BY THE MOTHER OF THE 1ST PETITIONER WHO IS ALSO THE WIFE OF THE 2ND PETITIONER HEREIN DATED 22.04.2022 BEFORE SUPERINTENDENT OF POLICE, THRISSUR RURAL

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