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Anil, vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1494632

Court : Kerala

Decided On : Jan-31-2022

Judge : Honourable Mrs. Justice C.S. Sudha

Appeal No. : Bail Appl./6309/2021

Appellant : ANIL,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE C.S. SUDHA MONDAY, THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943 BAIL APPL. NO. 6309 OF 2021 Crime No.641/2021 of Payyoli Police Station, Kozhikode PETITIONERS/ACCUSED 1 TO 5:

1 ANIL,AGED 34 YEARS, (WRONGLY SHOWN AS ANILKUMAR IN FIR), S/O. NARAYANAN, KARUVANDI HOUSE, PALLIKKARA P.O. PAYYOLI, KOZHIKODE, PIN - 673 522. 2 MITHUN N.,AGED 26 YEARS, S/O. RAVEENDRAN, NANGIERY HOUSE, PALLIKKARA P.O., 3 AMAL K.,AGED 24 YEARS, S/O. BHASKARAN, KELOTH HOUSE, PALLIKKARA P.O., 4 ATHUL SREENIVASAN, AGED 22 YEARS S/O.

SREENIVASAN, POYILIL HOUSE, PALLIKKARA P.O., 5 VIJEESH P., AGED 35 YEARS, S/O. KUNHANDI, PULPANDI HOUSE, PALLIKKARA P.O. BY ADV. SHRI.S.K.SAJU

RESPONDENTS/STATE AND COMPLAINANT: 1 STATE OF KERALA REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031. 2 S.H.O. PAYYOLI POLICE STATION, KOZHIKODE, PIN-673 522. BY SRI.C.K. SURESH, SPL. PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.01.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :-2-: Dated this the 31 st day of January, 2022

ORDER

This is an application under Section 438 of Cr.P.C. filed by the petitioners/A1 to A5 seeking pre-arrest bail in Crime No.641/2021 of Payyoly Police Station, alleging commission of the offences punishable under Sections 143, 147, 148, 341, 323, 324, 326, 307 read with Section 149 IPC.

2. The prosecution case is that the accused- five in

number, in furtherance of their common object of assaulting and causing injuries to the informant, on 01.06.2021 at 05.55 p.m. formed themselves into an unlawful assembly and then wrongfully restrained him, voluntarily caused hurt to him by beating him with an iron rod, which the informant warded off with his hand, due to which the blow hit his bone, resulting in a fracture. The intention of the accused was to cause the death of the informant by beating him with the iron rod on his head. It was only because the informant warded off the blow

:-3-: with his hand, injury was caused to his nose. The assault by the accused resulted in a fracture of the nasal bone of the informant. Hence the accused are alleged to have committed the offences punishable under the above mentioned Sections.

3. The application is opposed by the learned Public Prosecutor.

4. It is submitted by the learned counsel for the

petitioners/A1 to A5 that the present case has been registered as a counter-blast to Annexures A2 and A3 crimes that have been registered against the informant herein. The incident is alleged to have taken place on 01.06.2021 at 05.55 p.m. However, a complaint was filed by the informant before the court concerned only on 23.07.2021 on the basis of which the present crime has been registered. This inordinate delay has not been explained by the prosecution, which according to the learned counsel also probabilises the case of the petitioners that the present crime has been registered as a counter-blast to Annexures A2 and A3 crimes registered at the

:-4-: instance of the petitioners herein.

5. Heard both sides and perused the records.

6. As pointed out by the learned counsel for the

petitioners, there is an inordinate delay of 53 days in registering the present crime. The learned Public Prosecutor read over the allegations given in the complaint to explain the delay in registering the crime. The reasons given are quite convincing. Further, detention and custodial interrogation of the petitioners/A1 to A5 do not appear to be necessary in this case. In such circumstances, I am of the opinion that pre-arrest bail can be granted to the petitioners.

In the result, the application is allowed subject to the following conditions:

(i) The petitioners in the event of their arrest in the

aforesaid crime shall be released on bail on their executing a bond for a sum of ` 50,000/- each (Rupees fifty thousand only) with two solvent sureties for the like sum each. :-5-:

(ii) The petitioners shall appear before the Investigating

Officer on all Saturdays between 10 a.m. and 12 noon till the final report is filed. They shall also appear before the Investigating Officer as and when required by

the latter.

(iii) The petitioners shall co-operate with the investigation and they shall not intimidate or influence the witnesses in any manner or interfere with the course of investigation.

(iv) The petitioners shall not commit any offence(s) while on bail. Sd/- C.S.SUDHA JUDGE ami/

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