

Ratheesh vs State of Kerala

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Court : Kerala

Decided On : Aug-02-2022

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Bail Appl./5136/2022

Appellant : Ratheesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 2ND DAY OF AUGUST 2022 / 11TH SRAVANA, 1944 CRIME NO.778/2022 OF ERAVIPURAM POLICE STATION, Kollam PETITIONER/ACCUSED NO.1 TO 3: 1 RATHEESH AGED 59 YEARS S/O. BHAHULEYAN, RESIDING AT RATHEESH BHAVAN, MULLUVILA, VADAKKEVILA.P.O., KOLLAM, PIN - 691010 2 ABHINATH AGED 21 YEARS S/O. RATHEESH, RESIDING AT RATHEESH BHAVAN, MULLUVILA, 3 RAHESH AGED 55 YEARS S/O. BHAHULEYAN, RESIDING AT MAKAYIRAM, MULLUVILA, BY ADVS. S.SREEKUMAR (KOLLAM) K.VIJAYAN NAMITHA RAJESH RESPONDENTS/COMPLAINANT: 1 STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 THE STATION HOUSE OFFICER ERAVIPURAM POLICE STATION, KOLLAM, THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM- 691572, PIN - 691572 BY ADV PUBLIC PROSECUTOR SRI.NOUSHAD K.A. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02.08.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

----- B.A.NO. 5136 of 2022
----- Dated this the 2nd day of August, 2022

ORDER

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

2. Petitioners are accused in Crime No.778 of 2022 of Eravipuram Police Station, Kollam District alleging offences under Sections 294(B), 341,323,324,326,354,354(B),188 R/W 34 of the Indian Penal Code, 1860.

3. The prosecution case is that on 26.06.2022 when the defacto

complainant and her husband were on the way to the police station to file a complaint about the violation of an injunction order committed by the accused, the defacto complainant and her husband were wrongfully restrained and assaulted by the accused. During the assault the 2 nd accused is alleged to have hit the defacto complainant causing dislocation of one tooth and thereafter attempted to disrobe the defacto complainant, and thus the accused committed the offences alleged against them.

5. Sri.S.Sreekumar, the learned counsel for the petitioners

contended that the entire prosecution case is false and that the incident has been alleged to never occurred. It was also submitted that the defacto complainant was creating a situation for the purpose of making false allegations against the petitioners and other accused.

6. Sri. Noushad K.A, the learned Public Prosecutor opposed the

grant of anticipatory bail and submitted that the allegations are serious in nature. It was pointed out that though accused No.4 & 5 were arrested and subsequently released on bail, custodial interrogation of the petitioners is required.

7. Having regard to the circumstances of this case, and on an

appreciation of the arguments of the counsel for the petitioners as well as the learned Public Prosecutor, I am of the view that this bail application can be allowed on the following conditions. Accordingly, this application is allowed on the following conditions:

(i) Petitioners shall appear before the Investigating Officer on 10-08-2022 and shall subject himself to interrogation.

(ii) If after interrogation, the Investigating Officer

proposes to arrest the petitioners, then, they shall be released on bail on them executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum before the Investigating Officer.

(iii) Petitioners shall appear before the Investigating Officer as and when required and shall also co- operate with the investigation.

(iv) Petitioners shall not intimidate or attempt to influence the witnesses; nor shall they tamper with the evidence or contact the victim or her family members;

(v) Petitioners shall not commit any similar offences while they are on bail.

(vi) Petitioners shall not leave India without the

permission of the Court having jurisdiction. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with the law, notwithstanding the bail having been granted by this Court. BECHU KURIAN THOMAS JUDGE AJM/2/8/22

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