

Askar vs State of Kerala

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Court : Kerala

Decided On : Jul-01-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./9260/2021

Appellant : ASKAR

Respondent : State of Kerala

Judgement :

BANO.9260 OF 2021 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
FRIDAY, THE 1ST DAY OF JULY 2022 / 10TH ASHADHA, 1944 BAIL
APPL. NO. 9260 OF 2021 CRIME NO.1180/2021 OF Edathala Police
Station, Ernakulam PETITIONER/1st ACCUSED: ASKAR, AGED 34
YEARS S/O LATE ABOOBACKER, MULLASSERY PARAMBIL,
EDAYAPPURAM, ERNAKULAM BY ADVS. ENOCH DAVID SIMON
JOEL S.SREEDEV RONY JOSE LEO LUKOSE SUZANNE KURIAN
CIMIL CHERIAN KOTTALIL RESPONDENT/S: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, (THROUGH THE STATION HOUSE OFFICER,

EDATHALA POLICE STATION) BY SRI.SANGEETHA RAJ-PUBLIC
PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR
ADMISSION ON 01.07.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: BANO.9260 OF 2021 2

ORDER

This is an application filed u/s 438 of Code of Criminal Procedure seeking pre-arrest bail.

2. The petitioner is the accused No.1 in Crime No.1180/2021 of Edathala Police Station. The offence alleged against the petitioner is punishable under Section 498A r/w 34 of IPC.

3. The prosecution case in short is that the de facto

complainant was subjected to cruelty both mentally and physically by the petitioner and the remaining accused, demanding more dowry and thereby committed the offence.

4. Heard both sides and perused the case diary.

5. The learned counsel for the petitioner submitted that the

petitioner is absolutely innocent and he has been falsely implicated in the present case. He further submitted that there are no materials to connect the petitioner with the alleged crime and hence he is entitled to get bail. The learned Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as BANO.9260 OF 2021 3 a part of the intentional criminal acts of the petitioner and if the petitioner is released on bail at this stage, it would affect the course of investigation.

6. The accused Nos.2 and 3 were already granted

anticipatory bail by the learned Sessions Judge. The petitioner has no criminal antecedents. I went through the first information statement. Considering the averments in the first information statement and the entire facts and circumstances

of the case, I am of the view that the custodial interrogation of the petitioner does not appear to be necessary. For all these reasons, the petitioner is entitled to pre-arrest bail on conditions. In the result, the application is allowed on the following conditions:-

(i) The petitioner shall be released on bail in

the event of his arrest on executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties for the like sum each to the satisfaction of the arresting officer/investigating officer, as the case may be. BANO.9260 OF 2021 4

(ii) The petitioner shall fully co-operate with the investigation, including subjecting himself to the deemed police custody for the purpose of discovery, if any, as and when demanded.

(iii) The petitioner shall appear before the

investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. The petitioner shall also appear before the investigating officer as and when required by him.

(iv) The petitioner shall not commit any offence of like nature while on bail.

(v) The petitioner shall not make any attempt

to contact any of the prosecution witnesses, directly or through any other person, or any other way try to tamper with the evidence or influence any witnesses or other persons related to the investigation.

(vi) The petitioner shall not leave State of

Kerala without the permission of the trial Court. Sd/- DR. KAUSER EDAPPAGATH
ab JUDGE BANO.9260 OF 2021 5 APPENDIX OF BAIL APPL. 9260/2021
PETITIONER ANNEXURES Annexure A1 A TRUE COPY OF THE FIR IN CRIME
NO.1180/2021 OF EDATHALA POLICE STATION. Annexure A2 A TRUE COPY
OF THE OP TICKET DATED MOTHER FROM THE GOVT. HOSPITAL, ALUVA.
Annexure A3 CERTIFIED COPY OF THE ORDER DATED AND SESSIONS

COURT, ERNAKULAM IN CRL.M.C.NO.2459/2021.

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