

Swathi vs State of Kerala

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Court : Kerala

Decided On : Jan-22-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./9858/2021

Appellant : Swathi

Respondent : State of Kerala

Judgement :

B.A.No.9858/2021 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
SATURDAY, THE 22ND DAY OF JANUARY 2022 / 2ND MAGHA, 1943
BAIL APPL. NO. 9858 OF 2021 CRIME NO.2189/2021 OF VIZHINJAM
POLICE STATION, THIRUVANANTHAPURAM RURAL DISTRICT
PETITIONERS/ACCUSED 3 & 4: 1 SWATHI AGED 29 YEARS
S/O.LATE SADASIVAN ASARI, THEKKETHATTU THUNDUVILA
PUTHEN VEEDU, PAYATTUVILA P.O., KOTTUKAL,
BALARAMAPURAM, THIRUVANANTHAPURAM - 695 501. 2 YADHU
MOHAN AGED 26 YEARS S/O.MOHANAN S., AMBALATHINGAL
VEEDU, PAYATTUVILA P.O., KOTTUKAL, THIRUVANANTHAPURAM -

695 001. BY ADVS. SUMAN CHAKRAVARTHY K.R.RIJA
RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
OTHER PRESENT: SMT. SEETHA .S. (SR.PP) THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 22.01.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
B.A.No.9858/2021 2

ORDER

This is an application for anticipatory bail.

2. The petitioners are accused Nos.3 & 4 in Crime No.2189/2021 of

Vizhinjam Police Station, Thiruvananthapuram Rural District alleging commission of offences under Sections 452, 294(b), 323, 324, 354 r/w. Section 34 of the Indian Penal Code.

3. The allegation against the petitioner is that they trespassed into

the house of the de facto complainant together with the other accused and committed an offence punishable under Section 354 of the Indian Penal Code insofar as the de facto complainant is concerned and also attacked and injured, the son of the de facto complainant and her husband. It is also alleged that they used obscene words.

4. The learned counsel for the petitioner submits that among the

various offences alleged against the petitioners, only the offences under Sections 452 and 354 of the Indian Penal Code are non-bailable offences. It is submitted that both these offences are not attracted. It is submitted that a reading of the First Information Statement of the de facto complainant suggests that there were earlier disputes of a civil nature between the parties and there used to be frequent issues between them. It is submitted that there was a wordy altercation and the petitioners and other accused had not attacked or molested the de facto complainant or her family members in the manner suggested. It is submitted that,

going by the judgment of the Supreme Court in

B.A.No.9858/2021 3 Arnesh Kumar v. State of Bihar and another; 2014 (3) KHC 69 in respect of offences punishable for a period upto seven years, bail should be invariably granted unless this Court is satisfied that the provisions of Section 41A of the Cr.P.C indicates that the custody of the accused is required.

5. I have heard the learned Public Prosecutor also.

6. The learned Public Prosecutor, with reference to the First

Information Statement of the de facto complainant and the wound certificate in respect of the husband of the de facto complainant would submit that there are injuries to the husband of the de facto complainant and that there are specific allegations regarding the commission of offence under Section 354 of the Indian Penal Code. It is submitted that the grant of bail at this stage may affect the progress of investigation.

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

taking into consideration the nature of the allegations against the petitioners, I am inclined to grant anticipatory bail to the petitioners subject to conditions, as I am satisfied that their custody is not required for the purposes of investigation.

8. In the result, this bail application is allowed. It is directed that the

petitioners shall be released on bail in the event of their arrest in connection with Crime No.2189/2021 of Vizhinjam Police Station, subject to the following conditions:-

(i) The petitioners shall execute separate bonds for sums of Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the B.A.No.9858/2021 4 like sum to the satisfaction of the jurisdictional Court;

(ii) The Petitioners shall report before the Investigating officer in Crime No.2189/2021 of Vizhinjam Police Station at 9 a.m. on 27.1.2022 and 28.1.2022 and thereafter whenever called upon to do so;

(iii) The petitioners shall not attempt to contact the de facto complainant or interfere with the investigation, influence or intimidate any witness in Crime No.2189/2021 of Vizhinjam Police Station ;

(iv) The petitioners shall not involve in any other crime while on bail. If any of the aforesaid conditions are violated, the Investigating officer in Crime No.2189/2021 of Vizhinjam Police Station may file an application before the jurisdictional Court for cancellation of bail. Sd/- GOPINATH P. JUDGE acd

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