

Sabeer vs State of Kerala

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Court : Kerala Orders

Decided On : Feb-25-2021

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./259/2021

Appellant : Sabeer

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
THURSDAY, THE 25TH DAY OF FEBRUARY 2021 / 6TH PHALGUNA,
1942 CRIME NO.798/2020 OF Mattannur Police Station , Kannur
PETITIONER/S: SABEER AGED 41 YEARS, SON OF
ABDULRAHIMAN, PARAKATTIL HOUSE, ULİYIL P.O, IRITTY THALUK,
KANNUR DISTRICT - 670702. BY ADV. SRI.E.A.HARIS
RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682031. 2*
ABDUL RAHOOF AGED 29 YEARS JAMEELA'S, ULİYIL PO, IRITTY,
KANNUR DISTRICT - PIN - 670705. *IS IMPEADED AS PER THE
ORDER DATED 12.2.2021 IN CRL.M.A.NO.1/2021. R1 BY

SRI.SANTHOSH PETER SR PP R2 BY ADV. M.B.SHYNI R2 BY ADV. SRI.P.K.VARGHESE R2 BY ADV. SRI.DEEPAK RAJ OTHER PRESENT: THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25.02.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 25th day of February 2021 This is an application for anticipatory bail under Section 438 of Cr.P.C.

2. The applicant is the sole accused in Crime No.798/2020 of Mattannur Police Station for having allegedly committed offences punishable under Sections 447, 341, 323, 324 and 308 of the I.P.C.

3. The prosecution case, in brief, is that on 08.12.2020 at about 3.00 PM, the applicant due to previous enmity towards the de facto complainant wrongfully restrained him and attacked him by means of a hammer aiming at his head. The de facto complainant successfully evaded that and warded off the blow with

his hand and sustained an injury on his hand. Had the hammer landed on his head, it could have proved fatal and thus the applicant attempted to commit culpable homicide.

4. The applicant states that the allegations are not true and that the injury sustained is not serious, and therefore, he seeks pre-arrest bail.

5. Heard the learned counsel appearing for the applicant and the learned Public Prosecutor.

6. The de facto complainant has appeared and also

filed an objection to the application for bail. He has also produced a copy of the Whatsapp message, which he has received from the applicant indicating that a pit has been dug by the applicant with a message that it is prepared with intent to bury the de facto complainant.

7. The learned Public Prosecutor points out that

the applicant has three other criminal cases registered against him and proceedings under Section 107 of the Cr.P.C. was also initiated against him, and therefore, there is every possibility that he may threaten the de facto complainant in case he is released on anticipatory bail.

8. The learned Counsel appearing for the applicant

submits that the applicant is handicapped person having locomotor disability, as certified in Annexure 2 certificate, and there is no possibility of his assaulting anyone.

9. Going by the version of the prosecution, I find that despite being handicapped, the applicant has

attacked the de facto complainant with a dangerous weapon like a hammer aiming at his head, and a few days prior to this incident, he has sent a message to the de facto complainant indicating a pit which was dug to

bury him. And therefore, the allegation against the applicant

anticipatory bail. Under the above circumstances, the application for bail is disallowed and the applicant is directed to surrender before the investigating officer within two weeks. After interrogation and recovery, if any, he shall be produced before the jurisdictional court, where he is at liberty to apply for regular bail, which shall be considered and disposed of preferably on the very same day.

Sd/- ASHOK MENON dkr JUDGE

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