

Shameer S vs State of Kerala Represented by the Public Prosecutor High Court of Kerala

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Court : Kerala

Decided On : Feb-26-2021

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./1706/2021

Appellant : Shameer S

Respondent : State of Kerala Represented by the Public Prosecutor High Court of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
FRIDAY, THE 26TH DAY OF FEBRUARY 2021 / 7TH PHALGUNA,
1942 CRIME NO.2213/2020 OF Sasthamcotta Police Station, Kollam
PETITIONER/S: 1 SHAMEER S AGED 33 YEARS MATTATHAYYATHU
PADEETTATHIL TRANSFORMER JUNCTION, NORTH
MYNAGAPPALLY, KUNNATHUR TALUK, KOLLAM DISTRICT 2
SHIHAS AGED 25 YEARS AYANIVILATHODUVEL KIDANGALAM
NADUVIL, PATHARAM POST KUNNATHUR TALUK, KOLLAM

DISTRICT 3 NADEEM AGED 34 YEARS MANIKUNNEL, SOUTH MYNAGAPPALLY KUNNATHOOR TALUK, SOUTH MYNAGAPPALLY POST KOLLAM DISTRICT BY ADV. SRI.M.RAJESH RESPONDENT/S:
1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA ERNAKULAM 2 SUB INSPECTOR OF POLICE SASTHAMCOTTA POLICE STATION SASTHAMCOTTA PO, KOLLAM DISTRICT SMT.V.SREEJA -PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26.02.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 26th day of February 2021 This is an application filed under Section 438 of Cr.P.C seeking anticipatory bail.

2. The applicants are accused Nos.1 to 3 in

Crime No.2213/2020 of Sasthamcotta Police Station, for having allegedly committed offences punishable under Sections 447, 506(i), 436 of the IPC and Section 3(e) of the PDPP Act.

3. The prosecution case, in brief, is that on

17.12.2020 at about 1.45 a.m, the applicants allegedly trespassed into the compound of the de facto complainant's house, intimidated the de facto complainant and thereafter with the knowledge that their activity would cause damage to the dwelling house, they set ablaze an ambulance vehicle parked in front of the house of the de facto complainant, destroying it completely and as a result of the blaze certain household articles were also damaged. A portion of the window of the house also got damaged. The de facto complainant thus sustained a total loss of Rs.7 lakhs. It is also stated that the electricity wire which was connecting the house to the main electric supply wire was also damaged because of the act of the applicants and being a public property, they committed an offence punishable under Section 3(e) of the PDPP Act.

4. The applicants state that the allegations

are not true and even going by the FI Statement, it is only an assumption that certain members of the Congress party may have committed the offence. Because the de facto complainant allegedly belongs to PDP and they have certain rivalry between them. After the local body elections, there was also a procession carried out in the front of the house of the de facto complainant and that is the reason for the assumption that the applicants who are

also members of the Congress party that they had done the alleged act of arson and destruction of property. The applicants state that they are innocent and only on surmises they have been impleaded as accused.

5. Heard the learned counsel for the applicants and the learned Public Prosecutor.

6. The learned Public Prosecutor submits that

the first and second applicants have criminal antecedents. The first applicant is involved in a crime for offence punishable under Section 307 of the IPC, while the second applicant is implicated in a crime for an offence under the Sand Act. Hence, the application is vehemently opposed by the learned Public Prosecutor.

7. After having heard the submissions on both sides, I find that there is no material collected by the prosecution to indicate that the applicants were the perpetrators of the crime. Assumption

given in the statement of the de facto complainant that it may be Congress workers who have done the alleged act. The applicants admittedly belong to the Congress and they have allegedly conducted a procession also on the previous night and therefore they have put things together to include that it is the applicant who had done it. But without any concrete piece of evidence, it cannot be concluded that the applicants are the perpetrators of the crime. The prosecution still has more time to complete the investigation and I am sure that they would make an earnest attempt to find the perpetrators of the crime. The custodial interrogation of the applicants therefore not necessary. But at the same time, they have to co- operate with the investigation and therefore they are directed to be

released on bail on stringent conditions.

8. In the result the application is allowed

and the applicants are directed to surrender before the investigating officer within two weeks. In the event of their arrest, after interrogation and recovery if any, they shall be released on bail on execution of bond for Rs.50,000/-(Rupees Fifty thousand only) each with two solvent sureties for the like amount each to the satisfaction of the investigating officer and on the following conditions;

1. They shall appear before the investigating

officer on all Saturdays between 9 a.m and 12 noon for a period of two months or till filing of the final report whichever is earlier. 2.They shall deposit a sum of Rs.500/- each for the loss caused to the public property before the jurisdictional court. 3.They shall not tamper with evidence, influence or intimidate witnesses. 4.They shall not get involved in similar

offences during the bail period. In the event of violating the bail conditions, the prosecution shall be at liberty to apply for cancellation of bail before the jurisdictional court. Sd/- ASHOK MENON JUDGE spk

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