

Abhilash C vs State of Kerala

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Court : Kerala

Decided On : Mar-31-2021

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./2219/2021

Appellant : Abhilash C

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
WEDNESDAY, THE 31ST DAY OF MARCH 2021 / 10TH CHAITHRA,
1943 Bail Appl..No.2219 OF 2021 CRIME NO.9/2019 OF ARUVIKKARA
POLICE STATION , Thiruvananthapuram PETITIONER/S: ABHILASH C
AGED 37 YEARS RESIDING AT VILAYIL PUTHEN VEEDU,
ENIKKARA, KARAKKULAM VILLAGE, THIRUVANANTHAPURAM
695564 BY ADV. SRI.M.R.SARIN RESPONDENT/S: STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA R1 BY PUBLIC PROSECUTOR R1 BY ADDL.DIRECTOR
GENERAL OF PROSECUTION

OTHER PRESENT: SRI.SANTHOSH PETER SR PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.03.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Bail Appl..No.2219 OF 2021 2

ORDER

Dated this the 31st day of March 2021 Application for anticipatory bail under Section 438 of Cr.P.C. The applicant is the 2nd accused in Crime No.9/2019 of Aruvikkara Police Station, Thiruvananthapuram for having allegedly committed offences punishable under Sections 143, 147, 148, 149, 323, 324, 326, 307 and 427 of IPC.

2. The prosecution case, in brief, is that the applicant was

allegedly involved as an accused in the murder of the de facto complainant's uncle. He is on bail in that crime, which was registered in the year 2015 and presently pending as SC No.77/2020 before the Fast Track, Thiruvananthapuram. The applicant apprehended that the de facto complainant would attack him as an act of vengeance for the reason of killing his uncle and to prevent that he wanted to liquidate him with the help of the remaining accused, who are his friends, and they hatched a conspiracy to commit murder. As a result of the conspiracy, and in the prosecution of the common object of the unlawful assembly of which the applicant and other accused

Bail Appl..No.2219 OF 2021 3 were members, on 04.01.2019 near Kachani Milk Society in Karakulam Village at around 9 p.m., the applicant and the rest of the accused committed riot armed with deadly weapons and attacked the de facto complainant with dangerous weapons causing grievous injuries to him and thereby attempted to commit murder.

3. The applicant states that he is innocent and the

allegations are not true and that he has been falsely implicated in this case. It is further submitted by the applicant that on 03.01.2019, the previous date of occurrence, he was admitted to the Shantigiri Ayurveda Hospital and discharged

only on 10.01.2019 and therefore there is no possibility of the applicant being present at the scene of occurrence on that day on the alleged attempt of murder.

4. Heard the learned counsel for the applicant and the learned Public Prosecutor.

5. The learned Public Prosecutor has vehemently opposed

the application for bail stating that his act of getting himself admitted in the Santhigiri Hospital itself for the premeditated act and he wanted to set up a protection for himself and after getting admitted in the Hospital, he skulked from there and

Bail Appl..No.2219 OF 2021 4 conspired with the rest of the accused, who are his friends. There are call details records of the conversation which had taken place between the accused to conspire and commit murder of the de facto complainant. All these would indicate that the applicant was an active participant in the act of attempt of murder. Because the applicant is a person having criminal antecedents, he is already facing trial for an offence under Section 302 of IPC and there is another crime registered as Crime No.764/2020 against him. Therefore, the application for anticipatory bail is vehemently opposed.

Considering the entire facts and circumstances of this case, I find that the applicant is a person having criminal antecedents. He is already facing trial for an offence under Section 302 of IPC and his admission at the Santhigiri Hospital is also challenged by the prosecution, which needs to be proved by the prosecution at the time of trial. But meanwhile, I find that the complicity of the applicant stands established. Therefore, he is not entitled to the exceptional discretionary remedy of anticipatory bail. The application is disposed of with a direction to the applicant to surrender before the investigating officer within two weeks. In the event of his

Bail Appl..No.2219 OF 2021 5 arrest, after interrogation and recovery, he shall be produced before the jurisdictional court, where he is at liberty to apply for a regular bail, which shall be considered and preferably disposed of on the same day. SD/-

ASHOK MENON JUDGE rmm

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