

Ayishabi vs State of Kerala

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Court : Kerala

Decided On : Apr-30-2021

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./3146/2021

Appellant : Ayishabi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
FRIDAY, THE 30TH DAY OF APRIL 2021 / 10TH VAISAKHA, 1943 Bail
Appl..No.3146 OF 2021 CRIME NO.135/2021 OF Tirur Police Station ,
Malappuram PETITIONER/ACCUSED: AYISHABI AGED 39 YEARS
PULIKKAL HOUSE, TIRUR AMSOM, KOTT DESOM,PO KOTT,
PAZHAMKULANGARA, TIRUR TALUK, MALAPPURAM DISTRICT
676101 BY ADV. SRI.JAMSHEED HAFIZ RESPONDENT: STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM, PIN 682031 R1 BY PUBLIC
PROSECUTOR SRI.M.R.DHANIL THIS BAIL APPLICATION HAVING
COME UP FOR ADMISSION ON 30.04.2021, THE COURT ON THE

ORDER

Dated this the 30th day of April 2021 This is an application filed u/s 438 of Code of Criminal Procedure seeking pre-arrest bail.

2. The petitioner is the accused No.2 in Crime No 135/2021 of Tirur Police Station, Malappuram. The offences alleged are under Section 420 r/w Section 34 of IPC.

3. The prosecution case in short is that on 23.2.2018, the

petitioner and the 1st accused received 25 sovereigns of gold ornaments and a sum of `1,50,000/- from the de-facto complainant for investing into the real estate business run by them with assurance of lucrative monthly income and thereafter cheated the de-facto complainant without giving the share of profit or returning the amount 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 she 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 she is entitled to get bail. The learned Public Prosecutor opposed the bail application. He contended that the alleged incident occurred as a part of the intentional criminal acts of the petitioner and if the petitioner is

BA No.3146/2021 3 released on bail at this stage, it would affect the course of investigation.

6. The petitioner is the wife of the 1 st accused. It is seen from the records that the relationship between the petitioner and the 1 st accused is not cordial. The main allegations are against the 1 st

accused. Considering the allegations levelled against the petitioner, her custodial interrogation 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 her

arrest on executing a bond for `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.

(ii) The petitioner shall fully co-operate with the investigation, including subjecting herself 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. BA No.3146/2021 4

(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 Rp True Copy JUDGE PS to Judge

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