

Riyas vs State of Kerala

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Court : Kerala

Decided On : May-28-2021

Judge : Honourable Mr. Justice Ashok Menon

Appeal No. : Bail Appl./3720/2021

Appellant : RIYAS

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON
FRIDAY, THE 28TH DAY OF MAY 2021 / 7TH JYAISHTA, 1943 BAIL
APPL. NO. 3673 OF 2021 CRIME NO.434/2021 OF Cherthala Police
Station, Alappuzha PETITIONER/S: 1 SUNEER AGED 33 YEARS SON
OF NAZAR, VELIYIL HOUSE, CMC-8, CHERTHALA P.O, ALAPUZHA.
ALAPPUZHA, PIN - 688524 2 MUHAMMED YAZAR AGED 32 YEARS
SON OF YAHYA, DARULHIRA VEEDU, VADUTHALA JETTY P.O,
CHERTHALA, ALAPUZHA.

3 ABDUL KHADER AGED 52 YEARS SON OF ABDULLA, MUKKATHU
VEEDU, VAYALAR P.O, CHERTHALA, ALAPUZHA. BY ADV

E.A.HARIS RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 BY ADV PUBLIC PROSECUTOR SRI.SANTHOSH PETER THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18.05.2021, ALONG WITH Bail Appl..3720/2021 and 3878/2021, THE COURT ON 28.05.2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON FRIDAY, THE 28TH DAY OF MAY 2021 / 7TH JYASHTA, 1943 BAIL APPL. NO. 3720 OF 2021 CRIME NO.434/2021 OF Cherthala Police Station, Alappuzha PETITIONER/S: 1 RIYAS, AGED 38 YEARS SON OF KUNJU MUHAMMED, VELIMPARAMBU VEETIL, PANAVALLY P.O, AROOKUTTY, ALAPUZHA. ALAPPUZHA, PIN - 688526 2 MUHAMMED ANAS, AGED 24 YEARS SON OF ABDUL KABEER, POKKALITHARA VEETIL, ERAMALLOOR P.O, AROOR, CHERTHALA, ALAPPUZHA

3 ANSAL, AGED 33 YEARS SON OF ANSAR, VELIYIL VEEDU, CHERTHALA P.O, ALAPUZHA BY ADV E.A.HARIS RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 BY ADV PUBLIC PROSECUTOR SRI.SANTHOSH PETER THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.05.2021, ALONG WITH Bail Appl..3673/2021 AND 3878/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ASHOK MENON FRIDAY, THE 28TH DAY OF MAY 2021 / 7TH JYASHTA, 1943 BAIL APPL. NO. 3878 OF 2021 CRIME NO.434/2021 OF Cherthala Police Station, Alappuzha PETITIONER/S: BINSHAD P. S AGED 26 YEARS SON OF SHAHUDHEEN N.S NIKARTHIL HOUSE 32ND WARD

CHERTHALA MUNICIPALITY CHERTHALA THALUK ALAPPUZHA ALAPPUZHA, PIN - 688524 BY ADVS. C.J.VARGHESE VINU SRI.M.M.NIAS RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 BY ADV PUBLIC PROSECUTOR SRI.SANTHOSH PETER THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.05.2021, ALONG WITH Bail Appl..3673/2021 AND 3720/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

COMMON ORDER

Dated, this the 28th day of May, 2021 [B.A. Nos. 3673 of 2021, 3720 of 2021 and 3878 of 2021] Applications for regular bail under Section 439 Cr.P.C.

2. The applicants in B.A. 3673/21 are accused Nos.5 to

7, the applicants in B.A. 3720/21 are accused Nos.8,10 and 12, while the applicant in B.A. 3878/21 is the 19 th accused in Crime No. 434 of 2021 of Cherthala Police Station alleging offences punishable under Sections 120B 143,147, 148, 294(b), 341, 324, 326, 307 and 302 of the Indian Penal Code and under Section 27 of the Arms Act.

3. The prosecution case is that, the applicants and the

rest of the accused who belong to the SDPI owing to political rivalry towards the deceased Nandu R Krishna, and his friends including the de facto complainant, who belong to the BJP, hatched a conspiracy to murder them, and on 21.02.2021 at about 9:00 PM formed an unlawful assembly at Nangankulangara Junction in Vayalar, and in prosecution of the common object of the unlawful assembly of which they were all members, committed riot armed with deadly weapons like swords and sticks, wrongfully restrained the deceased Nandu R Krishna, and his friends Nandu K.S, and the defacto complainant, hurled abuses at them and others and attacked them with the swords inflicting a fatal cut injury on the head of the deceased Nandu R. Krishna and voluntarily caused grievous injury to his friend

Nandu K.S. with the motive to kill them and also beat the de facto complainant and others with sticks and thereby committed the offence of murder and attempted murder.

4. The applicants state that the allegations are not

true. The political rivalry is admitted. But the allegation of conspiracy is denied. In fact, the deceased, injured, defacto complainant and others were the aggressors who had attacked the applicants. A8 and A10 were also injured and admitted to the hospital. The wound certificates pertaining to their treatment are also produced. It is further stated that the F.I Statement does not attribute any grave overt act to the applicants. The specific allegation is that A1 and A2 took out swords from a car and handed it over to A3 and A4. Using those swords, A3 inflicted the allegedly fatal injury to the deceased while A4 inflicted the injury to Nandu K.S., who sustained a fracture to his left elbow. The allegation is that the rest of the accused identified as A5 to A16 and 9 other identifiable accused had beaten the de facto complainant and others with sticks. No visible injury is seen caused to them. The applicants except A19 were arrested on 25.02.2021, while A19 was arrested on 05.03 2021. Police custody was handed over and the applicants were interrogated in custody. Recovery is completed and there is no purpose to detain them. For the injuries sustained to the applicants and others, a counter case is registered as Crime No.458 of 2021 at the same police station. None of the applicants have any criminal antecedents, and there is no possibility of their fleeing from justice. Hence, the applicants seek bail.

5. Heard the Adv. Sri. C.J Varghese Vinu appearing for A19 and Adv. Sri. E.A. Haris appearing for rest of the accused. Senior Public Prosecutor Sri. Santhosh Peter appeared for the State. Records perused.

6. The learned Prosecutor has opposed the applications

for the reason that in case the applicants are released on bail, there is every possibility of their committing offences of similar nature, and being a politically motivated offence, there is also possibility of a retaliatory attack. Hence, the applications are opposed. However, it is admitted that no specific overt acts except

hitting with sticks are attributed to the applicants. A19 is not even named in the FIR. There is a counter case suggesting that there was a clash between the two groups. The applicants do not have criminal antecedents. Specific overt acts of using swords are attributed only to A1 to A4. The allegations of hatching conspiracy is rather vague.

7. Further detention of the applicants appears to be

unnecessary, and for the reasons stated above, the applicants are entitled to bail. The applications are allowed and the applicants shall be released on bail on execution of self bond for Rs 50,000/- (Rupees fifty thousand only) each before the Superintendent of the Jail they are housed, and soon after they are released, they shall each execute a bond for the said amount with two solvent sureties for like amount each to the satisfaction of the jurisdictional Court and on following further conditions:

1. They shall appear before the investigating officer on all Saturdays between 09:00 AM and 12 noon for a period of three months.
2. They shall not get involved in any offence during the currency of the bail.
3. They shall not tamper with evidence, influence, or

intimidate witnesses. In the event of breach of the aforesaid conditions, the prosecution shall be at liberty to get the bail cancelled by the jurisdictional Court, on application being filed. Sd/- ASHOK MENON JUDGE jg

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