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Unnikrishnan vs State of Kerala

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Court : Kerala Orders

Decided On : Sep-28-2021

Judge : Honourable Mrs. Justice M.R.Anitha

Appeal No. : Bail Appl./5694/2021

Appellant : Unnikrishnan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE M.R.ANITHA TUESDAY, THE 28TH DAY OF SEPTEMBER 2021 / 6TH ASWINA, 1943 BAIL APPL. NO. 5694 OF 2021 PETITIONER/2ND ACCUSED: UNNIKRISHNAN AGED 33 YEARS PANATTU HOUSE,KAIPAMANGALAM VILLAGE,KODUNGALLUR TALUK, THISSUR DISTRICT. BY ADV M.SHAJU PURUSHOTHAMAN RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM,PIN-682031. ADV.SEETHA.S - PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28.09.2021, THE COURT ON THE SAME DAY

DELIVERED THE FOLLOWING:

ORDER

Dated this the 28th day of September, 2021 Petitioner is the 2nd accused in Crime No.173/2021 of Kaipamangalam Police, registered under Sections 406, 417, 376(2) (n), 354, 341, 323 and 34 of IPC.

2. It is alleged that the 1st accused promise to marriage the defacto complainant and subjected to her have sexual intercourse on various dates relating to the period 25.6.2020 at about 21.00

hours and till 12.3.2021 at her house at Kaipamangalam, Punnakachal. Subsequently, he withdrawn from the promise and also obtained 10 sovereigns of gold ornaments and Rs.50,000/- from her on several occasions and thereby he cheated her.

3. On 14.3.2021 at about 20.00 hours at her house at Kaipamangalam, 1st accused assaulted her and 2nd and 3rd accused poured petrol on the body of the defacto complainant and outraged the modesty of the defacto complainant. Thereby, accused committed the offence aforementioned.

4. According to the learned counsel for the petitioner, the

allegations as against the petitioner will not attract offence under Section 354 of IPC. He only tried to intervene in the quarrel in between the 1st accused and the defacto complainant. He further contend that though the incident alleged to have occurred on 14.3.2021, the compliant has been lodged only on 18.3.2021 and no reason for delay is forthcoming. In the said circumstances, learned counsel seeks for pre arrest bail to the petitioner.

5. Learned Public Prosecutor on the other hand seriously

objects in considering the petition for pre arrest bail. According to her there are prima facie material support the allegations against the petitioner. Copy of the report of SHO along with copy of the FIR and FIS has also been produced from

the side of the respondent. The report filed by the Investigating Officer would reveal that the offence was committed by the petitioner along with other accused persons and he had been actively participating with accused Nos.1 and 2. It is also stated that if bail is granted to this petitioner, there is possibility of influencing the witnesses.

6. Though, the learned counsel would contend that there is

no specific allegations alleged against the petitioner, it could be seen that she clearly stated that the petitioner along with 3 rd accused caught hold of her body and assaulted her and dragged her into the autorickshaw. So there is the prima facie material to support the allegations. He is also actively participating along with the 1st accused, on the alleged incident on 14.3.2021. Hence,

petitioner is not entitled to be released on pre arrest bail.

7. In view of the facts and circumstances, I am of the view that the petitioner can be permitted to surrender before the Investigating Officer within a period of seven days starting from

28.9.2021. Thereafter on completing the formalities the Investigating Officer shall produce the petitioner on the same day before the jurisdictional court, upon such production if the petitioner files an application for regular bail, the concerned court is directed to dispose the application without unnecessary delay in accordance with law.

In the result, the bail application is dismissed and the petitioner is granted permission to surrender before the Investigating Officer within seven days from today (28-09-2021). Sd/- M.R.ANITHA JUDGE SMF

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