

Shabeer vs State of Kerala

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Court : Kerala

Decided On : Dec-31-2021

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Bail Appl./7120/2021

Appellant : Shabeer

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
FRIDAY, THE 31ST DAY OF DECEMBER 2021 / 10TH POUSHA, 1943
BAIL APPL. NO. 7120 OF 2021 CRIME NO.327/2021 OF Nilambur
Police Station, Malappuram PETITIONERS/ACCUSED:

1 SHABEER, AGED 30 YEARS, SON OF MUHAMMED BASHEER,
KUNDUKULI HOUSE, CHANDAKKUNNU, NILAMBUR P.O,
MALAPURAM., PIN - 676542 2 MUHAMMED ANAS, AGED 29 YEARS,
SON OF ALAVI, MANOLAN HOUSE, CHANDAKUNNU, NILAMBUR
P.O, MALAPURAM. 3 MUHAMMED SAFVAN, AGED 23 YEARS, SON
OF MUHAMMDALI, PALANGADAN HOUSE, CHANDAKUNNU,

NILAMBUR P.O, MALAPURAM. 4 MUHAMMED SHABEER, AGED 26 YEARS, MUHAMMEDALI, PALANGADAN HOUSE, CHANDAKUNNU, NILAMBUR P.O, MALAPURAM. 5 MUHAMMED RASHIK, AGED 21 YEARS, MUHAMMEDALI, PALANGADAN HOUSE, CHANDAKUNNU, NILAMBUR P.O, MALAPURAM. BY ADV E.A.HARIS

RESPONDENT: STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY SRI. PRASANTH M.P PUBLIC PROSECUTOR THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.12.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:2:-

ORDER

Dated this the 31st day of December, 2021 This is an application filed u/s 438 of Code of Criminal Procedure seeking pre-arrest bail.

2. The petitioners are the accused Nos.1, 3, 5, 6 and 7 in Crime No.327/2021 of Nilambur Police Station. The offences alleged are under Sections 143, 147, 148, 324 and 308 read with Section 149 of IPC.

3. The learned counsel for the petitioners submits that the accused Nos. 6 and 7 have already been arrested and hence the prayer as against them has become infructuous.

4. The prosecution case in short is that on 18.7.2021 at

7 pm, the petitioners along with the remaining accused formed an unlawful assembly in prosecution of the common object of the assembly assaulted the de-facto complainant and his friends with weapon, with intention to commit murder and thereby committed the offence.

5. Heard both sides. -:3:-

6. The learned counsel for the petitioners submitted that

the they are absolutely innocent and they have been falsely implicated in the present case. He further submitted that there are no materials to connect the petitioners 1 to 3/accused Nos.1, 3 and 5 with the alleged crime and hence they are 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 petitioners and if the petitioners 1 to 3/accused Nos.1, 3 and 5 are released on bail at this stage, it would affect the course of investigation.

7. A perusal of Annexure 2 order passed by the learned

Magistrate would show that the investigation is almost over. The statement of almost all the material witnesses were recorded. The said order would further show that the injury sustained by the de-facto complainant is not serious in nature. There is only lacerated wound and contusion. Considering the allegations levelled against the petitioners, the custodial interrogation of the

petitioners does not appear to be necessary. For all these reasons, the accused Nos. 1, 3 and 5/petitioners 1 to 3 are :-4:- entitled to pre-arrest bail on conditions. In the result, the application is allowed on the following conditions:-

(i) The petitioners 1 to 3/accused Nos.1, 3 and 5 shall be

released on bail in the event of their arrest on executing a bond for `1,00,000/- (Rupees One lakh only) each 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 petitioners 1 to 3/accused Nos.1, 3 and 5 shall

fully co-operate with the investigation, including subjecting themselves to the deemed police custody for the purpose of discovery, if any, as and when demanded.

(iii) The petitioners 1 to 3/accused Nos.1, 3 and 5 shall

appear before the investigating officer between 10.00 a.m and 11.00 a.m on every Saturday until further orders. They shall also appear before the investigating officer as and when required by him.

(iv) The petitioners 1 to 3/accused Nos.1, 3 and 5 shall not commit any offence of like nature while on bail. -:5:-

(v) The petitioners 1 to 3/accused Nos.1, 3 and 5 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 petitioners 1 to 3/accused Nos.1, 3 and 5 shall not leave State of Kerala without the permission of the trial Court. Sd/- DR. KAUSER EDAPPAGATH
JUDGE kp True copy P.A. To Judge

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