

Nasar vs State of Kerala

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Court : Kerala

Decided On : Sep-30-2021

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./7471/2021

Appellant : NASAR

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V.
THURSDAY, THE 30TH DAY OF SEPTEMBER 2021 / 8TH ASWINA,
1943 AGAINST THE ORDER/JUDGMENT IN CRMC 1424/2021 OF
DISTRICT COURT & SESSIONS COURT, THRISSUR, THRISSUR
CRIME NO.1708 OF 2021 OF KUNNAMKULAM POLICE STATION
APPLICANT/ACCUSED NOS.1 TO 4 :-

1 NASAR AGED 43 YEARS S/O KUNJIVAPPU, KALIYATH VEEDU,
PARAUVAKKUNNU DESOM, KARIKAD VILLAGE, THRISSUR-680519.
2 BINEESH AGED 31 YEARS, S/O SUBRAMANIAN, NEDIYODATH
VEEDU, PARUVAKKUNNU DESOM, THRISSUR-680519. 3 ILLYAS

AGED 31 YEARS, S/O MAJEED, OSARA VEETIL, PARUVAKKUNNU
DESOM, PERUMPILAVU VILLAGE, THRISSUR-680519. 4 VIBEESH
AGED 34 YEARS S/O VIJAYAN, THALAPPULI VEEDU,
KAMBIPPALAM DESOM, PORKKULAM VILLAGE, THRISSUR-680542.
BY ADVS. P.VIJAYA BHANU (SR.) SRUTHY N. BHAT
M.REVIKRISHNAN AJEESH K.SASI MITHA SUDHINDRAN POOJA
PANKAJ RAHUL SUNIL P.M.RAFIQ

RESPONDENT/COMPLAINANT :- STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM-682031. BY SRI.MANU.P.G- SR.PP THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 30.09.2021,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Application for regular bail.

2. The petitioners who are the accused Nos.1 to 4 in Crime No.1708 of 2021 of
Kunnamkulam Police

Station, Thrissur District registered for the offences punishable under Sections
341, 323, 324, 326 and 308 r/w Section 34 of the Indian Penal Code, have moved
this application for his release on bail.

3. The prosecution allegation is that these petitioners were entertaining enmity
towards the defacto complainant. So on 02.09.2021 at about 18.30

hours with their common intention t

complainant rushed to the spot and then he was beaten with a wooden stick and
caused fracture to his little finger, apart from other injuries. A blow with the wooden
stick aiming towards his head by the first accused, was somehow or other evaded
by him. Had it been otherwise, it would have caused his death. Thus these
petitioners have committed the aforesaid offences.

4. The petitioners have been in custody since 04.09.2021.

5. Heard the learned counsel for the petitioners as well the learned Public Prosecutor.

6. The learned Senior counsel appearing for the

petitioners would submit that they are totally innocent of the allegations levelled against them. In fact, on the previous night the defacto complainant and his friends have trespassed into the residential house of the first accused, attacked him and misbehaved to his wife and a crime has been registered against as crime No.1704 of 2021 before the very same police station. They have also damaged his car parked in the courtyard and thus they have committed the above said crime. In order to escape from that case as well as a defence, these petitioners were falsely implicated in the case. In fact, they have not committed any offence as alleged by the prosecution. But they are undergoing unnecessary incarceration since the date of their arrest.

7. According to the learned Public Prosecutor the first petitioner, who is the first accused and the second petitioner, who is the second accused are having criminal antecedents. But now the investigation of this case is well in progress.

8. No doubt the allegations levelled against

these petitioners are serious in nature as materials would show that the defacto complainant reached the spot on seeing that his friend was encircled by these petitioners to manhandle him. The defacto complainant

in fact sustained injuries including fracture when he tried to rescue him. Now the investigation of the case has progressed considerably and charge sheet could be filed within no time, as recovery has been effected. Having considered nature of accusation levelled against this petitioner, the present stage of investigation as well the period of detention undergone by him in judicial custody, I am inclined to release him on bail subject to the following conditions :-

(i) The petitioners shall be released on bail

on executing a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties for the like sum each to the satisfaction of the court having jurisdiction.

(ii) They shall appear before the investigating officer on every Saturday between 10.00 am and 11.00 am for a period of two months or till filing of the final report, whichever is earlier.

(iii) The petitioners shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the

facts of the case so as to dissuade him from

disclosing such facts to the court or to any police officer or tamper with the evidence.

(iv) The petitioners shall not commit any

offence while on bail. In case of violation of any of the above conditions, the learned Magistrate/Judge is empowered to cancel the bail in accordance with the law. Sd/- SHIRCY V. JUDGE SMA

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