

Ajmal vs State of Kerala

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Court : Kerala

Decided On : Oct-29-2021

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./7553/2021

Appellant : AJMAL

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. FRIDAY,
THE 29TH DAY OF OCTOBER 2021 / 7TH KARTHIKA, 1943 BAIL
APPL. NO. 7553 OF 2021 CRIME NO.1033/2021 OF Chavakkad Police
Station, Thrissur PETITIONER/ACCUSED NO.4 :- AJMAL AGED 40
YEARS S/O.ASHARAF, VAZHAPPULLY HOUSE, MANATHALA
BEACH, CHAVAKKAD P.O., THRISSUR-680506. BY ADV M.R.SASITH
RESPONDENT :- STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,
PIN-682031. BY SRI.K.A.NOUSHAD, SR.PUBLIC PROSECUTOR THIS
BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
29.10.2021, ALONG WITH Bail Appl..7579/2021, THE COURT ON THE

SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. FRIDAY,
THE 29TH DAY OF OCTOBER 2021 / 7TH KARTHIKA, 1943 BAIL
APPL. NO. 7579 OF 2021 CRIME NO.1033/2021 OF Chavakkad Police
Station, Thrissur AGAINST THE ORDER/JUDGMENT IN CRMC
1393/2021 OF DISTRICT COURT & SESSIONS COURT, THRISSUR
PETITIONERS/ACCUSED NO.2 & 3 :- 1 DANISH @ MUHAMMED
DHANISH AGED 19 YEARS S/O. HAMEED, THATTIL HOUSE,
MANATHALA BEACH, CHAVAKKAD P.O., THRISSUR-680 506 2
FAISAL, AGED 18 YEARS PANDARI HOUSE, MANATHALA BEACH,
CHAVAKKAD P.O., THRISSUR-680 506 BY ADV M.R.SASITH
RESPONDENT :- STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,
PIN-682 031. BY SRI.NOUSHAD K.A., SR.PUBLIC PRPSECUTOR
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
29.10.2021, ALONG WITH Bail Appl..7553/2021, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

ORDER

[Bail Appl. Nos.7553/2021, 7579/2021] Bail application No.7579 of 2021 is the pre-arrest bail application filed by accused Nos.2 and 3 in Crime No.1033 of 2021 registered for the offences punishable under Sections 341, 323, 326 and 506(ii) r/w Section 34 of the Indian Penal Code.

2. Bail application No.7553 of 2021 is the pre- arrest bail application filed by accused No.4 of the very same crime.

3. The facts as revealed from the FIR is that on 31.08.2021 at about 07.30 pm while the defacto complainant was walking through a public road, the petitioners along with the other accused have

wrongfully restrained him near to the 'Siddaque Palli' and accused Nos.3 and 4 caught hold of his hands from behind him and accused No.2 fisted on his face and the accused No.1 hit on his nose with a granite stone causing grievous injuries including nasal bone fracture. Thereby, they have committed the aforesaid offences.

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

5. According to the learned counsel for the

petitioners, they are youngsters and students having no criminal antecedents. They are totally innocent of the allegation levelled against them. But they apprehend arrest and hence this application.

6. On the other hand the learned Public Prosecutor has submitted that FIR, other connected records as well the wound certificate of the defacto complainant, who is aged only 20 years, for perusal.

7. The injuries noted by the doctor, who examined him immediately after the incident are as follows :-

(i) Abrasion on the root of nose (1 x 1.5 cm)

(ii) Bleeding from both nostril.

(iii) Contused abrasion. Left side of face near the eye (3 x 1 cm).

(iv) Swelling

8. CT scan of the head was also advised. Nasal

bone fracture was detected in CT scan. It is also revealed from the records that he was admitted in the hospital for treatment because of the seriousness of the injuries sustained by him and discharged from the hospital only subsequently.

9. The wound certificate of the injured would

indicate that he had sustained serious injuries in the attack by a group of persons known to him. He was advised to undergo treatment with antibiotics and he had to remain in the hospital as inpatient also for few days and continued follow-up treatment. So the gravity of the offences alleged against these petitioners are no doubt serious in nature. The defacto complainant was unarmed at the time of incident. The accused Nos.1 and 4 grabbed him from back and so he was unable to move or resist, when he was hit with a granite stone by the accused No.1 and punched by accused No.2.

10. It is true that the petitioners are

youngsters having no criminal antecedents. But alone is not sufficient to conclude that they are entitled for pre-arrest bail especially when the injured is also an youngster aged only 20 years. Having regard to the nature of accusation levelled against these petitioners as well the fact that they are not having criminal antecedents, I think that the bail applications can be disposed of directing them to surrender before the investigating officer on 05.11.2021 between 10.00 am and 12.00 noon. Upon their surrender, after interrogation and recovery of the material object, if any, they shall be produced before the jurisdictional court. If an application for bail is moved by them, the same shall be considered and disposed of by the jurisdictional court on merits without any delay. With these directions this bail application is disposed of. Sd/- SHIRCY V. JUDGE SMA

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